

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

TYSON FOODS, INC., et al,)

Defendants.)

4:05-CV-00329-TCK-SAJ

VOLUME I OF THE VIDEOTAPED

30(b)(6) DEPOSITION OF TIM ALSUP, produced as a
witness on behalf of the Plaintiff in the above
styled and numbered cause, taken on the 24th day of
June, 2008, in the City of Tulsa, County of Tulsa,
State of Oklahoma, before me, Lisa A. Steinmeyer, a
Certified Shorthand Reporter, duly certified under
and by virtue of the laws of the State of Oklahoma.

A P P E A R A N C E S

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-and-
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1 FOR TYSON:

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4
5 ALSO PRESENT:

Ms. Rachel Lee

Legal Clerk

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I N D E X

W I T N E S S P A G E

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1 (Whereupon, the deposition
2 began at 9:05 a.m.)

3 VIDEOGRAPHER: We are now on the Record for
4 the deposition of Mr. Tim Alsup. Today is June 24,
5 2008. The time is 9:04 a.m. Would counsel please 09:05AM
6 identifies themselves for the Record?

7 MR. GARREN: Richard Garren for the State
8 of Oklahoma with Pat Green from my office.

9 MR. BULLOCK: Louis Bullock for the State
10 of Oklahoma. 09:05AM

11 MR. WALKER: Todd Walker for the Cargill
12 defendants and with me is Theresa Hill.

13 MR. HIXON: Philip Hixon for Peterson
14 Farms, Inc.

15 MR. BOND: Michael Bond for Tyson Foods, 09:05AM
16 Tyson Chicken, Tyson Poultry and Cobb-Vantress.

17 MR. THOMPSON: Paul Thompson on behalf of
18 the George's defendants.

19 VIDEOGRAPHER: Thank you. The witness may
20 be sworn in. 09:05AM

21 MR. GARREN: Again, Paul, we're going to
22 invoke the Rule of Sequestration. If you have
23 anybody enter the room with you, please announce so
24 we can make the Record.

25 MR. THOMPSON: No problem. 09:06AM

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1 MR. GARREN: And, likewise, if you leave,
2 so we know who is gone or who is here.

3 TIM ALSUP
4 having first been duly sworn to testify the truth,
5 the whole truth and nothing but the truth, testified
6 as follows:

7 DIRECT EXAMINATION

8 BY MR. GARREN:

9 Q State your full name for the court again,
10 please.

09:06AM

11 A Tim Alsup.

12 Q Okay. We met previously on June 12, 2008 in
13 another deposition; is that correct?

14 A Yes, sir.

15 Q All right. You understand you are under oath
16 here today, and the rules generally that we used
17 last time will apply this time, that I'll ask the
18 questions and ask you to verbally give your
19 responses to those questions. All right?

09:06AM

20 A Yes, sir.

09:06AM

21 Q All right, and try and avoid uh-huh and huh-uh
22 so we have a yes or no when it's applicable.

23 A Okay.

24 Q Let's establish for the Record who your
25 current employer is.

09:06AM

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1 A It's Cargill Turkey Products, Inc.

2 Q Okay. It's not Cargill Turkey Production,
3 LLC?

4 A Yes, sir, Cargill Turkey Production, LLC.

5 Q Okay, and your position or title with the LLC? 09:07AM

6 A Precision Ag manager.

7 Q All right, and you've been with the -- we have
8 a Cargill, Inc., and a Cargill Turkey Production,
9 LLC, that we'll be talking about today and tomorrow.

10 A Yes, sir. 09:07AM

11 Q When we use the term Cargill, I'm going to be
12 referring to Cargill, Inc. I'm going and try to use
13 the term Turkey Production Or CTP or LLC so we'll be
14 talking about the other entity. I'd likewise ask
15 you to do the same. Will you do so? 09:07AM

16 A Yes, sir, I will try.

17 Q Okay, and I -- you're here as a company
18 designee to speak for the company on certain
19 subjects and to provide complete, knowledgeable and
20 binding answers on behalf of the company regarding 09:07AM
21 those subjects that have been identified in a Rule
22 30(b)(6) notice for this deposition served by the
23 State on Cargill in litigation that's currently
24 pending in federal court. Do you understand your
25 duties and responsibilities in that regard? 09:07AM

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1 A Yes, sir.

2 Q All right. I'm going to hand you Plaintiff's

3 Exhibit No. 1, which is a copy of that subpoena,

4 which has the subject matters that you are

5 designated to speak to. Now, counsel and I, we've

09:08AM

6 talked previously and then just today before, that

7 you're not today speaking on all of these subjects

8 and I understand that. So we'll identify those,

9 subjects when we can so we make sure those are the

10 ones that you're testifying to and not all of them

09:08AM

11 on the subpoena.

12 A Okay.

13 Q Recognizing that we'll have another witness

14 talk about those others. Okay?

15 A Yes, sir.

09:08AM

16 MR. WALKER: And I'll just state for the

17 Record, I believe Mr. Tucker sent on May 5th, 2008

18 to you identifying which subjects Mr. Alsup is

19 prepared to testify about.

20 MR. GARREN: And is that the same listed in

09:08AM

21 the April 18th, '08 letter?

22 MR. WALKER: I just brought a copy of the

23 May 5th, '08 letter.

24 MR. GARREN: Okay. Why don't we go off

25 just a second and let's just make sure we're on the

09:09AM

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1 same page.

2 VIDEOGRAPHER: We're now off the Record.

3 The time is 9:08 a.m.

4 (Whereupon, a discussion was held off
5 the Record.)

09:11AM

6 VIDEOGRAPHER: We are back on the Record.

7 The time is 9:10 a.m.

8 Q Okay. Mr. Alsup, off the Record we went

9 through the numbers that have been designated for

10 you to speak to, and I'll just read those into the

09:11AM

11 Record so we'll know those are the ones you are

12 expected to answer to today with regard to Cargill,

13 Inc. Based upon the notice and the exhibit that's

14 attached to the notice, the subjects of inquiry are

15 4, 5, 7, 10, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22,

09:11AM

16 26, 27, 28, 29, 31A, 33, 34, 36 and 38. Now --

17 MR. WALKER: Counsel, I didn't hear you say

18 Topic 13.

19 MR. GARREN: I did.

20 MR. WALKER: Okay. I'm sorry.

09:12AM

21 Q Now, those are the topics for Cargill, Inc.

22 What I'm going to propose to do today to try to help

23 us on a time elimination is that we will principally

24 speak to Cargill, Inc., today, and that's why we

25 want to make sure we know which entity we're talking

09:12AM

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1 about but, secondly, I would like to ask a follow-up
2 question that relates to CTP, the LLC, because the
3 timeline will, I think, logically follow just to ask
4 what happened thereafter, and so I'll try and make
5 that clear to you when we're talking after --

09:12AM

6 anything that occurs really after June 1, 2004, and
7 those subjects for Cargill Turkey are essentially
8 the same ones but they're numbered differently, and
9 I'll read those into the Record that these are the

10 topics you've been designated to speak to. Those

09:12AM

11 would be for Cargill Turkey Production, LLC, 3, 4,
12 6, 9, 11, 12, 13, 15, 16, 17, 18, 25, 26, 27, 28,
13 29, 30, 31, 32A, 34, 35, 37 and 39. Those subjects
14 are essentially the same; they're just a little bit
15 different in the numbering scheme. Okay?

09:13AM

16 A Yes, sir.

17 MR. WALKER: Right.

18 MR. BULLOCK: Did somebody just join the
19 conference?

20 MR. THOMPSON: This is Paul, Mr. Bullock.

09:13AM

21 I heard that beep, too, but it's still just me in my
22 office. I don't know if someone else joined from
23 somewhere else.

24 MS. BRONSON: Yeah, Vicki Bronson.

25 MS. HILL: Can you hear us all right?

09:13AM

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1 MR. THOMPSON: I can hear you fine.

2 MR. GARREN: Vicki, the Rule of
3 Sequestration has been invoked. So to the extent
4 that we need to know if you have anybody with you or
5 if you are leaving or coming or going, please advise 09:13AM
6 on the Record.

7 MS. BRONSON: I will do that.

8 MR. GARREN: Thank you.

9 Q Okay. Now, Mr. Alsup, do you understand what
10 your responsibility is as a designated 30(b)(6) 09:14AM
11 witness for Cargill entities?

12 A To represent Cargill with those items that you
13 just read into the Record.

14 Q Okay. You understand that when I ask you
15 questions and if you say you or I, we're really 09:14AM
16 talking about Cargill, Inc., or CTP, the LLC, not
17 you individually; do you understand that?

18 A Yes, sir.

19 Q All right. If I -- and if you use the term I
20 or me or likewise refer to you the singular, I'm 09:14AM
21 going to understand that you are really talking
22 about Cargill, Inc.; do you understand that?

23 A Yes, sir.

24 Q All right, and to the extent that we talk
25 about the LLC, you'll be speaking for that LLC on 09:14AM

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1 those subject matters that we just read into the
2 Record. All right?

3 A Yes, sir.

4 Q The same with regard to the reference of I or
5 me with regard to talking of the LLC. The same 09:15AM
6 rules will apply there, that your statements will be
7 binding to the LLC and not from you personally. Do
8 you understand that?

9 A Yes, sir.

10 Q All right, and that's why you are here today; 09:15AM
11 do you agree?

12 A Yes, sir.

13 Q Okay. When I use the term poultry growing
14 operation today, if I do, I want to kind of define
15 that so we're on the same understanding, and what I 09:15AM
16 mean by that is any poultry growing facility where
17 birds are owned by Cargill, Inc., or the LLC and are
18 being produced or grown. Do you understand that?

19 A Yes, sir.

20 Q I know there will be certain instances where 09:15AM
21 we'll talk about company-owned farms, and I will try
22 to make that clear and, likewise, if you're only
23 talking about a company-owned farm as opposed to
24 some other facility, I need to know that from you.

25 Can you agree to do that? 09:15AM

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1 A Yes, sir.

2 Q All right. My period of inquiry today is from
3 the date that Cargill commenced operation within the
4 Illinois River watershed. I believe you've
5 testified previously you have some familiarity with 09:16AM
6 where that watershed boundary is; is that correct?

7 A Generally, yes, sir.

8 Q All right. I'm going to be using the term
9 poultry waste, and what I mean by that is this
10 definition: It means the poultry excrement, bedding 09:16AM
11 material, feed waste and any other waste associated
12 with the confinement of poultry in a grow house,
13 which is removed periodically from the grow house,
14 used or disposed of elsewhere, and commonly referred
15 to by poultry integrators as poultry litter. Do you 09:16AM
16 understand that term when I use poultry waste?

17 A Yes, sir.

18 Q All right. Now, I know you have a tendency to
19 use the term poultry litter. Are you in agreement
20 that this definition as I used here today also 09:16AM
21 defines your use of the term poultry litter?

22 MR. WALKER: Object to the form.

23 A Poultry litter to me means the bedding and the
24 litter that's in the house. That could be feed
25 waste. It's got bird excrement. It's got bedding 09:17AM

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1 material in it.

2 Q Okay. So when you use the term litter, you
3 mean to include excrement, used bedding material,
4 feed waste or other waste associated with the
5 confinement of the poultry in a grow house; is that 09:17AM
6 correct?

7 A Yes, sir.

8 Q Okay. Tell the court and the jury today what
9 did you do to prepare for this deposition.

10 A Visited with counsel, looked over a large 09:17AM
11 number of documents and talked to employees.

12 Q All right. Let's start with the documents.
13 Were the documents you looked at documents that have
14 a Bates number at the lower right-hand corner that
15 you've seen previously in a deposition? 09:17AM

16 MR. WALKER: Object to the form.

17 A Sir, I don't know if they had a Bates number
18 on it. Counsel helped pull documents that they
19 thought was relevant that I needed to kind of be
20 aware of, but I -- 09:18AM

21 Q You didn't notice whether each of the
22 documents had a Bates number affixed to it?

23 A No, sir. I wasn't looking at the numbers at
24 the bottom.

25 Q Where did the process occur that you looked at 09:18AM

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1 these documents?

2 A They -- it's occurred in Springdale and in
3 Tulsa.

4 Q All right. What employees did you speak to in
5 preparation for your deposition? 09:18AM

6 A I have spoken to Tim Maupin, Jason Witt, John
7 Kaufeld.

8 Q Spell his last name for the Record.

9 A K-A-U-F-I-E-L-D maybe.

10 Q Is it Kaufield or Kaufeld? 09:18AM

11 MS. HILL: I think it's spelled F-E-L-D.

12 A Okay. Laverne Thompson. Let's see. Brenda
13 Roe. That would be the current employees I've spoke
14 to.

15 Q Did you speak to any past employees? 09:19AM

16 A Yes, sir, I did.

17 Q And what were the names of those people?

18 A Jim Ward, Nathan Mefford, Dale Young, Ron
19 Yowell.

20 Q Can you spell his last name? 09:19AM

21 A Y-O-W-E-L-L. Darrell Oxford, and I'm sorry, I
22 forgot one current, Paul Lawrence.

23 Q Did you speak to any parties who have not been
24 or are currently employees of Cargill, Inc., or the
25 LLC besides counsel? 09:20AM

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1 MR. WALKER: Object to the form.

2 A I'm sorry, I don't --

3 Q In preparation for your deposition today, did
4 you speak to any other persons than those you have
5 given me names for this morning? 09:20AM

6 A No, sir. Just the employees and the retirees.

7 Q All right. Mr. Maupin has given his
8 testimony. So let me ask you about Mr. Witt. What
9 is his position or title with Cargill and tell me
10 what entity he is with? 09:20AM

11 A CTP ag manager.

12 Q And Mr. Kaufeld, his title?

13 A CTP. I think he's a driver, a delivery driver
14 for the hatchery. He works at the hatchery.

15 Q Mr. Thompson? 09:20AM

16 A Laverne, she is CTP and a clerk.

17 Q Where does she office?

18 A In Springdale.

19 Q Brenda Roe?

20 A CTP, accountant. 09:21AM

21 Q Paul Lawrence?

22 A CT -- I believe it's CTP, and he is a complex
23 manager.

24 Q Let me clear up one other thing just so we do
25 understand. You said earlier today that you were an 09:21AM

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1 employee of Cargill Turkey Products, Inc. So when
2 you refer to CTP today, you're not referring to that
3 entity; we're referring to the LLC; is that correct?

4 A Yes, sir.

5 MR. WALKER: I think he corrected his 09:21AM
6 testimony that he's working for Production, LLC.

7 Q What I'm going to do is if you need to refer
8 to that entity, because you might, let's make sure
9 it's CTP, Inc., or Products, Inc., something we can
10 distinguish it. All right? 09:21AM

11 A Okay.

12 Q Thank you. Now, the past employees, Jim Ward,
13 where did he work and at what time do you know he
14 retired?

15 A He retired a year ago, and do you want to know 09:22AM
16 where he worked last or where --

17 Q Yes, where he last worked.

18 A Springdale.

19 Q And that was for CTP, LLC?

20 A Yes, sir. 09:22AM

21 Q Mr. Mefford, when did he retire and where did
22 he work?

23 A Mr. Mefford worked at Springdale, and I
24 believe he worked for CTP, LLC. I think he retired
25 after June 1 of '04. 09:22AM

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1 Q And Mr. Young?

2 A He worked in Springdale, CTP, LLC.

3 Q And when did he leave his employment?

4 A I think Nathan and Dale both retired in the
5 '04, '05 range. 09:23AM

6 Q Mr. Yowell?

7 A He would have been in the Cargill, Inc. He
8 retired in early -- around '01, '02, somewhere
9 around in there.

10 Q And Mr. Darrell Oxford? 09:23AM

11 A He would have also been an Inc.

12 Q Okay.

13 A And he retired in '02, '03 time frame.

14 Q Of these past employees that you've mentioned,
15 did any of them hold a title or a position that 09:23AM
16 referred to environmental issues or concerns?

17 A No, no, sir.

18 Q What was Mr. Ward's position when he left?

19 A When he left, he was the -- I believe the new
20 housing coordinator. 09:23AM

21 Q In that housing coordinator, we're referring
22 to houses for grow-out barns or brood barns?

23 A Yes, sir.

24 Q All right, and Mr. Mefford, what position did
25 he hold when he retired? 09:24AM

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1 A Flock supervisor.

2 Q And that was in the Springdale complex;
3 correct?

4 A Yes, sir.

5 Q And Mr. Young, what position did he hold when 09:24AM
6 he retired?

7 A The same, flock supervisor.

8 Q Also at Springdale; correct?

9 A Yes, sir.

10 Q And Mr. Yowell at Cargill, Inc., what position 09:24AM
11 did he hold?

12 A Flock supervisor.

13 Q And Mr. Oxford?

14 A He was -- I don't know his exact title,
15 director of live production possibly. I don't know 09:24AM
16 his exact title.

17 Q Okay. I'm going to get into an area that
18 speaks to Items 4 and 5 for Cargill, Inc., and I'll
19 read those to you, but they're in your notice if you
20 want to read them yourself. 4 is the 09:25AM
21 relationship --

22 A Sir, is this the number you're talking about
23 right here?

24 Q Yes, sir. No. 4 should be the relationship
25 between Cargill and persons or entities owning or 09:25AM

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1 operating poultry growing operations under contract
2 with Cargill and the management, supervision,
3 inspection and monitoring by Cargill of persons,
4 entities owning or operating poultry growing
5 operations under contract with Cargill. Okay? 09:25AM

6 A Yes, sir.

7 Q That's the subject I want to try to talk about
8 and we'll talk about several things in that area.

9 A Okay.

10 Q And you're designated to speak on those 09:25AM
11 topics; correct?

12 A Yes, sir.

13 Q Likewise, the corresponding topics would be 3
14 and 4 for Cargill Turkey Production, LLC, and I'll
15 bring those up if we talk about those. All right? 09:25AM

16 A Okay.

17 Q Right now we're talking about Cargill, Inc.

18 A Okay.

19 Q Am I correct in understanding that Cargill,
20 Inc., has a right to not deliver birds to a grower 09:26AM
21 in its discretion?

22 A If we have a contract with a contractor, we
23 have to -- we have to fulfill that contract.

24 Q Are there times where the company may exercise
25 in its discretion a decision not to deliver birds to 09:26AM

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1 a contract grower?

2 MR. WALKER: Object to the form.

3 A Yes, sir.

4 Q Describe, if you would, what might occur that
5 would cause Cargill, Inc., not to deliver birds to a 09:26AM
6 contract grower.

7 A If a flock supervisor sees a litter pile
8 that's stacked outside that's improperly covered, we
9 can withhold placement. If there are animal welfare
10 issues we see on the farm that -- like the birds 09:27AM
11 aren't getting fed because the equipment doesn't
12 work, we can withhold a placement until that's
13 fixed, things like that.

14 Q Are there any other things that you can think
15 of that would be -- let me ask it this way: Can you 09:27AM
16 give me any other example of a different reason for
17 which birds have in fact been withheld by Cargill?

18 A No, sir, not as long as we have a contract
19 with them, no, sir.

20 Q Can you tell me, sir, when, if any, and who it 09:27AM
21 was that birds are withheld because of a litter pile
22 being improperly stored on the property?

23 A To my knowledge when I've been involved and
24 I've known about it when it's been addressed, it has
25 been fixed, and to my knowledge that has never 09:28AM

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1 happened. We've never had to withhold a placement.

2 Q All right. So do I understand this then:

3 It's correct that Cargill has not withheld birds

4 because of a litter pile or a poultry waste pile

5 sitting outside of -- uncovered?

09:28AM

6 MR. WALKER: Object to the form.

7 A No, sir, because it has been corrected.

8 It's -- when it's been addressed, the contract

9 producers have fixed the issue.

10 Q So you would agree with me then, there has

09:28AM

11 been not an instance where birds have in fact been

12 withheld because of litter piles or poultry piles

13 sitting outside uncovered; correct?

14 A Yes, sir.

15 Q All right. How many instances can you tell me

09:28AM

16 have occurred where litter piles were discovered and

17 there was at least a threat of withholding birds

18 from a grower?

19 A Two I know of for sure and -- no. Three,

20 three I know for sure.

09:29AM

21 Q What time frame are you talking about that

22 this occurred?

23 A Late '90 -- in the late '90's and early 2000,

24 2001, 2002.

25 Q Were any of these locations, the three you

09:29AM

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1 referred to, inside the boundaries of the Illinois
2 River watershed?

3 A I believe two -- yes, sir.

4 Q Which ones?

5 A All three of them I believe. 09:29AM

6 Q Can you give me the names of the growers?

7 A One of them was -- his name was Wheaton.

8 Another one -- his last name was Simmons, and the

9 third one escapes me. He's outside Lincoln. I

10 don't remember the third one. 09:30AM

11 Q Are either of these three growers still
12 growing for Cargill, what would be today the CTP,
13 LLC?

14 A No, sir.

15 Q Does Cargill, Inc., have specifications that 09:30AM

16 it requires for the grow-out or brood houses that
17 are to be used by its growers?

18 A You mean -- yes, they do have to have a

19 watering system, ventilation system, feeding

20 systems. 09:31AM

21 Q Do they have any size restrictions, any other
22 types of equipment requirements that must be met
23 before birds are placed?

24 A I'm sorry, what do you mean by size

25 restrictions? 09:31AM

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1 Q Are there certain sizes of houses that Cargill
2 requires as a minimum?

3 A No, sir.

4 Q What is the smallest house that Cargill will
5 allow a grower to grow today, Cargill, LLC today? 09:31AM

6 A I don't know the size of the house. I know
7 there's a grower that gets about 3,500 turkeys.

8 Q My question, though, deals with the size of
9 the house. Is there a minimum -- you said there's
10 no minimum size? 09:31AM

11 A No.

12 Q Can you tell me what is the smallest size
13 house that is growing for either Cargill, Inc., or
14 Cargill, LLC?

15 A No, sir. I can't remember the size of that -- 09:31AM
16 of the houses on that one farm.

17 Q Okay. Cargill has used a person referred to
18 as a flock supervisor in its operations; correct?

19 A Yes, sir.

20 Q All right, and that flock supervisor is an 09:32AM
21 employee of Cargill; is that true?

22 A Yes, sir.

23 Q When he's working for Cargill?

24 A Yes, sir.

25 Q Prior to June 1, 2004? 09:32AM

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1 A Yes, sir.

2 Q Maybe we can clarify that. I saw a document
3 that shows a contribution agreement where Cargill
4 Turkey, LLC, came into being June 1, 2004. So I'm
5 going to use that as kind of a timeline for us in 09:32AM
6 this deposition, that things occurring before that
7 were likely Cargill, Inc., things occurring after
8 that appear to be Cargill Turkey Production, LLC.
9 Okay?

10 A Yes, sir. 09:32AM

11 Q That might help us to both know kind of where
12 we are in time frame.

13 A Yes, sir.

14 Q All right. Is that a date that you know to be
15 correct yourself? 09:32AM

16 MR. WALKER: I'm going to object to the
17 form of the question. Corporate organizational
18 questions are not for this witness.

19 Q Do you know, sir?

20 A I have seen that date before, yes, sir. 09:33AM

21 Q Okay. So for purposes of this deposition,
22 we'll rely on that being the date; all right?

23 A Yes, sir.

24 Q Okay. So for Cargill, Inc., a flock
25 supervisor would be an employee of the company; is 09:33AM

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1 that correct?

2 A Yes, sir.

3 Q All right. Is he also trained to advise
4 the -- first off, what kind of training does a flock
5 supervisor receive for Cargill? 09:33AM

6 A From being hired at new, he or she works with
7 the other flock supervisors visiting farms. Their
8 primary concern is bird health. So that's where
9 they focus on lot of their attention. It's -- they
10 learn kind of the flow. On-the-job training I guess 09:34AM
11 is what you're asking, but there is -- we do not
12 have a class that they go to to learn how to be a
13 flock supervisor.

14 Q All right. Do flock supervisors receive any
15 kind of environmental training as it relates to 09:34AM
16 operating poultry grow-out facilities?

17 A The flock supervisors have -- they -- training
18 such as if they spot a litter pile, they know to
19 report it, things of that nature if that's what
20 you're asking. 09:34AM

21 Q I'm asking what formal training does Cargill
22 provide any of its flock supervisors that would
23 involve the subject of environmental concerns at
24 poultry growing operations.

25 MR. WALKER: Object to the form. 09:35AM

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1 A Other than looking for improperly stored
2 litter piles or improperly managed composters, that
3 would be it.

4 Q When did Cargill, Inc., first require its
5 flock supervisors to either report on improper 09:35AM
6 litter piles or improper managed composters?

7 A In research and looking at documents, Cargill
8 has addressed -- I found documents from 1990, '91
9 with BMPs on properly storing litter outside. So I
10 have to assume that that would be since the early 09:36AM
11 '90's when those came out. I haven't found anything
12 in the '80's document-wise.

13 Q Do you know if in fact then that Cargill
14 provided these documents that you looked at
15 involving BMPs, and that would be best management 09:36AM
16 practices; correct?

17 A Yes, sir.

18 Q All right. That's the term that you're using
19 with BMPs?

20 A Yes, sir. 09:36AM

21 Q So do you know whether Cargill has in fact
22 provided that documentation to its flock supervisors
23 as part of their training or education?

24 A The flock supervisors would have had the BMP
25 manual, yes. 09:36AM

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1 Q And so you're referring to a manual; is that
2 correct?

3 A Yes, sir.

4 Q Is that the environmental BMP manual or is it
5 the grow-out BMP manual? 09:36AM

6 A It's a grow-out. The one I'm referring to was
7 the grow-out BMP manual.

8 Q And do you know, sir, whether it contains
9 information with regard to proper litter storage or
10 waste handling processes? 09:37AM

11 MR. WALKER: Object to the form.

12 A It addressed storing litter outside and having
13 it properly covered.

14 Q What does -- what did Cargill do to assure
15 that its flock supervisors were properly trained in 09:37AM
16 the areas of environmental concerns for litter piles
17 and managing composters?

18 A Well, that was on-the-job training. I mean
19 it's -- it's pretty simple. If you see -- if
20 there's litter stored outside and it's not covered 09:37AM
21 properly, then that's -- we need to address it, and
22 composters, if it looks like they're improperly
23 composting, it's -- if there's -- don't have enough
24 carbon material and you may have some oozing, you
25 may -- if you can see part of a bird sticking up out 09:38AM

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1 of the top or if a varmint can get in there and
2 scratch around on it and dig in it, then I mean
3 that's part of their on-the-job training when
4 they're learning how to be a flock supervisor.

5 Q Who then would provide that training to a
6 flock supervisor in the Cargill entity?

09:38AM

7 A The production manager is their direct
8 supervisor.

9 Q All right, and who would be the production
10 manager in the Springdale complex today for the LLC?

09:38AM

11 A Jason Witt.

12 Q All right, thanks. It's correct, is it not,
13 that flock supervisors visit generally weekly or
14 more often for the farms under their care or
15 supervision?

09:39AM

16 A Yes, sir.

17 Q And when those flock supervisors make these
18 inspections or visits, do they prepare and fill out
19 a report each time?

20 A I do not know about each time, but they do
21 fill -- a lot of the times there is a report, a
22 visitation report filled out.

09:39AM

23 Q All right, and as part of their duties and
24 responsibilities in making the inspection at the
25 various grow-out facilities, do they check on the

09:39AM

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1 temperature controls in the barn?

2 A If there is a temperature -- if they feel it's
3 too hot or too cold, they may check on it, yes.

4 Q So they actually take some temperature, do
5 they not? 09:40AM

6 A Yes, sir.

7 Q All right, and some of these temperature
8 controls are by computer as I understand it; is that
9 true?

10 A There are some contract farming operations 09:40AM
11 that have computer controls, yes.

12 Q So if need be, though, he would adjust those
13 controls if he thought it was important to do so?

14 A Only -- there's two instances, one, if he has
15 a good enough relationship with a grower -- if the 09:40AM
16 grower is not around -- if the grower is there, they
17 don't, but if the grower is not there and it looks
18 like the birds may be in a little distress because
19 they're too hot, he may adjust the fans to get some
20 more air. He'll note it if that's what you're 09:40AM
21 talking about.

22 Q That's fine. If the grower is in fact there,
23 though, he would speak with the grower and ask him
24 to make that adjustment; correct?

25 A Yes, sir. 09:41AM

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1 Q Likewise, the flock supervisor would check
2 water supplies to the birds on these inspections?

3 A Yes, sir. They look to see if there's water
4 available for the birds.

5 Q And if there are issues or problems with 09:41AM
6 regards to the water supplies, they would make the
7 adjustment or ask the grower to make adjustments;
8 correct?

9 MR. WALKER: Object to the form.

10 A If there is no water, let's say, they would 09:41AM
11 try to go find the grower. You're getting into the
12 well and electrical and that, but they probably
13 wouldn't know what adjustments to make, but if it
14 was -- if a waterer was overflowing, let's say, and
15 causing a spill, they could pinch the hose off and 09:41AM
16 so it wouldn't get any bigger and then would tell
17 the grower that, yes.

18 Q The birds drink from a nipple; is that
19 correct?

20 A Only in -- only in some of the brooder houses. 09:42AM
21 The --

22 Q If those nipples are not at the proper height
23 for the birds, would a flock supervisor either
24 adjust them or ask the grower to adjust them?

25 MR. WALKER: Object to the form. 09:42AM

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1 A Not necessarily. Yes, he would ask the grower
2 to adjust them.

3 Q Let me hand you what's been marked as Exhibit
4 26. Let me give you the original. There are
5 numerous forms here and I just want to go through 09:42AM
6 them just briefly and if you'll identify them for
7 us, to the jury and the court. Let's talk about the
8 first one. Is this an example of a flock supervisor
9 report that would be made on or around March of
10 2005? 09:43AM

11 A Yes.

12 Q All right, and we're looking at Bates number
13 10856 on the first page. Is that what you see?

14 A Yes, sir.

15 Q Okay. Let's skip through a little bit because 09:43AM
16 the forms change and I just want to ask you about
17 that. Actually we're looking at one in '05. That's
18 being used today by Cargill Turkey Production, LLC,
19 isn't it?

20 A I believe it is. I haven't seen a form this 09:43AM
21 year, but I believe it is similar, yes.

22 Q Well, this one was dated March of '05 so that
23 would have been the LLC, not Cargill, Inc.; correct?

24 A Yes, sir, but I guess what I'm trying to say,
25 Jason Witt came about two years ago and he may have 09:43AM

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1 adjusted this visitation report, but I don't know.

2 Q Okay. Flip through to a page that's 12718,
3 and it looks like this document here in front of me.
4 It's called a turkey management team message.

5 MS. HILL: It's 1278? 09:44AM

6 MR. GARREN: 12718.

7 MS. HILL: 718.

8 MR. GARREN: It will be the first form that
9 looks like this.

10 Q Are you there? 09:44AM

11 A 12718?

12 Q Yes, sir, and it says a message from the
13 turkey management team. This one has a date on it
14 12-18-03, so this would have been in advance of the
15 LLC's creation. Tell the court what this turkey 09:44AM
16 management report team is for.

17 A Grower communication.

18 Q And who would prepare the handwritten
19 materials that are on this message?

20 A The flock supervisor. 09:44AM

21 Q So this is another example of the way they
22 would communicate with a grower, they meaning the
23 flock supervisor?

24 A Yes, sir.

25 Q All right. Turn to the next page and we see 09:44AM

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1 another yet different form that says flock
2 evaluation, and it has a date March of '03; do you
3 see that?

4 A Yes, sir.

5 Q And we're on Bates number 10918; correct? 09:45AM

6 A Yes, sir.

7 Q And this also just another form used by flock
8 supervisors in advising the growers of their
9 inspection and perhaps things that should be done?

10 A It is a form that they would fill out on their 09:45AM
11 visit, yes.

12 Q All right. To your knowledge are there more
13 than one forms like today being used or these are
14 just form changes that we're seeing that might have
15 come into play at different times? 09:45AM

16 A I believe for Inc., these -- and we're talking
17 about Inc.

18 Q Yes, sir.

19 A I believe this is form changes that we see.

20 Q Okay. Now, generally a flock supervisor, upon 09:45AM
21 filling out these forms, would leave them at the
22 facility with a grower if he wasn't there?

23 A Yes, sir.

24 Q And, likewise, would deliver it perhaps
25 personally to him if a grower was there; correct? 09:46AM

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1 A Yes, sir.

2 Q In addition to preparing this report, he would
3 speak to the grower about things that may or may not
4 be on the report; correct?

5 A Yes, sir, they do visit with the growers. 09:46AM

6 Q Is it part of the flock supervisor's duty to
7 check every subject matter or item that are listed
8 on the forms that have those check boxes or spaces?
9 For example, we're looking at 10918. We see

10 basically seven items here, temperature, 09:46AM

11 ventilation, water, feed, litter, biosecurity and
12 curtain drop; do you see those subjects?

13 A Yes, sir.

14 Q Is it generally the responsibility of a flock
15 supervisor to check each of those items at each 09:46AM
16 inspection?

17 A He will -- everything except the curtain drop.
18 That's only done -- I believe at this time they were
19 doing it two times a year, testing them one to two
20 times a year. 09:47AM

21 Q So at those times a flock supervisor would
22 test whether the curtains drop and raise properly;
23 is that what I understand you to say?

24 A Yes, sir.

25 Q All right, but other than that, the rest of 09:47AM

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1 the subjects, they would be expected to inspect on
2 and report to the grower about those matters;
3 correct?

4 A Yes.

5 Q All right, and then skipping back to the very 09:47AM
6 first page of this document in the exhibit, this is
7 a different report but it's dated after the LLC.
8 The report just changed and generally the same
9 subjects are there but in a little bit more detail;
10 would you agree? 09:47AM

11 A Yes, sir.

12 Q All right. This report at Bates number 10856
13 would likewise be filled out at the inspection and
14 left with the grower; correct?

15 A Yes, sir. 09:48AM

16 Q Now, is it Cargill's intention that the
17 growers heed the advice and follow the instructions
18 of its flock supervisor?

19 MR. WALKER: Object to the form.

20 A Where it comes to bird health, yes, sir. For 09:48AM
21 what matters on bird health, yes, sir, we expect the
22 growers to heed that advice. Where it is relating
23 to performance, that is a recommendation, and the
24 growers, I mean if they -- we're there to try to
25 give them advice on how to or the flock supervisor 09:48AM

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1 is there to give them advice to help what we think
2 would help their flocks perform better, but the
3 growers are under no requirement to do that.

4 Q But growers understand that they are evaluated
5 on their performance at each flock; correct? 09:49AM

6 A Their flock performance is evaluated.

7 Q And so to the extent they've been given
8 instructions that would appear to be helping them in
9 that performance, they most likely would listen and
10 follow them, would they not? 09:49AM

11 MR. WALKER: Object to the form.

12 A Not necessarily.

13 Q Let's talk a little bit about what you
14 referred to as bird health. Tell me what are the
15 subjects or items that fall within your definition 09:49AM
16 or category of bird health that flock supervisors
17 check on.

18 A Okay. If they come into a farm and there's no
19 water at all in the barn, the bird is going to get
20 dehydrated, cause lower immune systems, they can get 09:50AM
21 sick, and if it -- obviously if it goes on long
22 enough, they will dehydrate and die. That would be
23 a bird health. If they come in and there is water
24 and the birds can reach it but the supervisor thinks
25 that if they raised it another inch or two, it would 09:50AM

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1 help the birds maybe drink out of the drinkers
2 better, give them a little bit easier access, get a
3 better utilization of drinking the water, that would
4 be what I would consider a performance issue.

5 Q I'm talking about bird health. Let me ask you 09:50AM
6 this: Would this be considered bird health, culling
7 dead birds that are in the house; is that a bird
8 health issue?

9 A Culling dead birds? The growers picking up
10 dead birds, if -- you can't just leave a dead bird 09:51AM
11 in the house.

12 Q Let me ask you this: Did I use a term that
13 Cargill uses, culling, or is it just simply picking
14 up and disposing of the bird carcass?

15 A There are instances where the growers will 09:51AM
16 cull some birds, yes.

17 Q And that culling means something different
18 than just picking up a dead bird, does it not; that
19 means actually killing the bird because of some
20 reason and then disposing of its body? 09:51AM

21 A Yes, sir.

22 Q Okay, and so my questions are clear then, with
23 regard to bird health, a flock supervisor would be
24 concerned if there were dead birds in the house that
25 hadn't been picked up; would that be a fair 09:51AM

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1 statement?

2 A Yes, sir.

3 Q All right, and who makes the decision how and
4 when birds that are otherwise alive need to be
5 culled, that is, killed and disposed of; does the
6 grower do that or in combination with the flock
7 supervisor?

09:52AM

8 A The grower -- the grower is the one that
9 mainly makes that decision, but if he has any
10 questions, he can ask -- he can ask his flock
11 supervisor what he thinks about whether the bird
12 needs to be culled or not.

09:52AM

13 Q All right, and the information necessary to
14 make that decision about when and how to cull a
15 bird, that's provided by Cargill, is it not, to the
16 grower?

09:52AM

17 A Well, it's not -- if a bird has a broke leg or
18 is otherwise in distress if he or the bird is sick
19 or ill and is down and not eating or drinking, I
20 guess the rule of thumb is if the bird is in such a
21 physical manner that it's not going to recover and
22 it is in distress, then it's a good thing to --
23 that's what the flock supervisor says, yeah, cull it
24 and get it out of there.

09:52AM

25 Q Okay, but -- and you've given me some good

09:53AM

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1 examples of when that decision would be made. My
2 point is that the flock supervisor or others in
3 Cargill assist the grower in understanding what
4 factors they need to look at to make that decision;
5 correct? 09:53AM

6 A If it is a new grower that doesn't have any
7 previous experience, yes, sir.

8 Q So at times do flock supervisors, in going
9 through the house themselves, make a determination
10 to cull birds? 09:53AM

11 A If they're walking through the house and they
12 see a bird that is down or a broken leg or whatever,
13 he may or she may talk with a grower that says,
14 look, you've got -- I saw three or four birds in
15 there that were down, be probably good to get them
16 culled out. 09:54AM

17 Q Okay. We've talked now generally about a lot
18 of the duties of a flock supervisor. Has Cargill
19 essentially used a flock supervisor most, if not all
20 the time it's operated? 09:54AM

21 A Yes, sir.

22 Q Okay, and Cargill, LLC, today continues to use
23 flock supervisors, does it not?

24 A Yes, sir.

25 Q Of those things that we've talked about, this 09:54AM

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1 is kind of a transition now, I'm talking about going
2 from Cargill, Inc., to Cargill Turkey, LLC. Okay?

3 A Okay.

4 Q When Cargill Turkey, LLC, came into existence,
5 are the duties, responsibilities and actions that 09:54AM
6 you've described generally today for a flock
7 supervisor essentially the same under the LLC as
8 they were under Inc.?

9 A Yes, sir, I believe so.

10 Q All right, and, in fact, those who were flock 09:55AM
11 supervisors prior to the inception of the LLC simply
12 continued in those positions once the LLC was put in
13 place; correct?

14 MR. WALKER: Object to the form.

15 A They -- if -- I think what you're saying, if 09:55AM
16 they were a flock supervisor with Cargill,
17 Incorporated, June 1st, they would have been a flock
18 supervisor for CTP, LLC.

19 Q Okay. Let me hand you what's marked as
20 Exhibit No. 33 and ask you to briefly look at that 09:55AM
21 document. It's a document entitled Cargill Turkey
22 best management practices and it starts with Bates
23 number 138697.

24 A 13869 -- yes, sir.

25 Q All right. Is this the best management 09:55AM

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1 growing manual or one similar to what you described
2 earlier?

3 A No, sir. On Bates number 138698 it has Rocco
4 Turkey at the top of it and that's -- without going
5 through and reading every page, and I don't have a
6 Cargill, Inc., best management practice to compare
7 it to, I don't know, but this is from Rocco.

09:56AM

8 Q All right, and Rocco was a company that
9 Cargill, Inc., acquired in 2001 that operates
10 essentially in the Virginia area; correct?

09:56AM

11 MR. WALKER: Object to the form.

12 A Yes. Cargill, Inc., purchased Rocco.

13 Q Okay. Does Cargill, Inc., have a manual
14 that's similar to this, though, that has a best
15 management practice for growing out, which I think
16 you described earlier?

09:56AM

17 A Well, Cargill, Inc., had -- has had a BMP,
18 best management practice for production, yes, sir.
19 Is it the same? I can't answer if it's the same
20 information in here. There's some differences and
21 there's possibly some similarities, but I don't know
22 that.

09:57AM

23 Q All right. Do you know this: Did Cargill,
24 Inc., in fact use or adopt the Rocco best management
25 practices manual that we're seeing here as its own

09:57AM

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1 at some time after its acquisition of Rocco?

2 MR. WALKER: Object to the form.

3 A No, sir, because Cargill had a BMP book. Like
4 I say, doing my search on documents, I saw a best
5 management practice back to '90, '91. 09:57AM

6 Q Let me hand you Exhibit 27 then and we'll look
7 at that and see if you can tell me what this
8 document is. It's Bates number 142597. It's a
9 document entitled live production service manual.

10 MR. WALKER: Take a moment. I need to fix 09:58AM
11 my exhibit apparently. Take your time to look
12 through that.

13 MS. HILL: Looks like maybe the first page.

14 Q In your review of documents in preparation for
15 this deposition, did you see this document? 09:58AM

16 A No, I did not see this document.

17 Q Do you know what this document is?

18 A Well, let me -- it looks like this would be
19 something a new flock supervisor could look at, kind
20 of what to look for, how the process works when they 09:59AM
21 get birds or when they get baby turkeys. Let me
22 see. Some of the goals, like, you know, some -- I'm
23 not going to say goal but some targets on some
24 temperatures, so it's kind of just like a -- if a
25 new flock supervisor had any questions, it looks 10:00AM

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1 like they could go to this and say, now, you know,
2 kind of refer to it as a manual, a manual.

3 Q So that's what I want to establish. This is
4 essentially a manual that would be used by a flock
5 supervisor as opposed to an actual grower; correct? 10:00AM

6 A Yes, sir, that's what it appears.

7 Q And this appears to set out certain standards
8 and specifications and instructions that Cargill
9 would want its flock supervisor to follow and to
10 assist its growers with; correct? 10:00AM

11 A There are some goals that they need to be or
12 targets that they need to be looking at, and some of
13 it is just general information of how to pick up
14 when they process the flock. I mean, you know,
15 it's -- 10:01AM

16 Q Let's look at a couple of specific examples.

17 A Okay.

18 Q Look at Page 142601.

19 A Okay.

20 Q That particular document at the top says 10:01AM
21 Cargill's Class A housing standard. What is a Class
22 A housing standard for Cargill, just generally, not
23 the specifics that we read here, but what does it
24 mean?

25 A Well, it's -- at one time I believe that there 10:01AM

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1 was some standards set out for maybe what proper
2 housing was, and I think it had to do with
3 equipment, insulation, stoves, things of that
4 matter.

5 Q And you say at one time there were standards. 10:01AM
6 Do you know what time roughly we would be -- that
7 this live production service manual that we're
8 looking at, Exhibit 27 would have come into being
9 and use?

10 A It looks like it would have been in use in the 10:01AM
11 '90's.

12 Q Okay. Going to the next page, 142602, which
13 is the second page of the document, standards for
14 proper house preparation 2A, it says wet and cake
15 litter removed; do you see that? 10:02AM

16 A Yes, sir.

17 Q All right, and that's something that Cargill
18 would expect to occur. Is that what I understand
19 this to tell us?

20 A It is a practice to remove the cake litter, 10:02AM
21 caked litter.

22 Q Okay, and go to the next page, which is Page 3
23 of the document, Item C1. It says under litter
24 management, wet and caked litter should be removed
25 when recommended by supervisor. Do you see that? 10:02AM

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1 A Yes, sir.

2 Q All right, and the supervisor it's referring
3 to here would be the flock supervisor; correct?

4 A Yes, sir.

5 Q All right. The next page in this document, 10:02AM
6 it's Page 142604. This says Class B housing
7 standards. So do I understand that there are --
8 this says improper housing. Do you understand what
9 that is telling us in this manual?

10 A If they did not meet the requirements for the 10:03AM
11 Class A housing, it would have been put into this
12 category.

13 Q All right. So then these are criteria then
14 that need to be accomplished in order to have a
15 Class B housing; is that what I understand? 10:03AM

16 A Yes, sir.

17 Q Whose responsibility is it to communicate
18 the -- whether a grower has houses that qualify
19 under the Class A or Class B housing requirements?

20 A That -- I don't believe that is being used, 10:04AM
21 but at that time in the '90's, it would have been
22 the flock supervisor and the grow-out manager,
23 production manager.

24 Q Look at the next page, 142605. Are you there?
25 House preparation and sanitation of brooder house. 10:04AM

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1 A Yes, sir.

2 Q Tell the court what a brooder house is.

3 A A brooder house is the house that baby turkeys
4 or poults are delivered to. They -- it's not like
5 chickens where they go to all the houses. They go 10:04AM
6 to a specific house.

7 Q Okay, and Item 4 of this particular page, it
8 says in the second sentence of that paragraph, if
9 there has been no health problems with previous
10 flock, litter may be reused, but consult your flock 10:05AM
11 supervisor on what should be done before any is
12 removed. Is that still the condition or did that
13 continue to be a condition for Cargill growers?

14 MR. WALKER: Object to the form.

15 A The brooder -- the litter in the brooder house 10:05AM
16 is now used in the grow-out. It's just -- the birds
17 are real small in a brooder house, so it's mainly
18 just shavings. So looks like at this time they were
19 even reusing it because it was still mainly shavings
20 but -- 10:05AM

21 Q I'm sorry. Go ahead.

22 A But now that litter is -- that bedding and
23 litter material is used in the grow-out house.

24 Q Understanding that, though, this says he
25 should consult to the flock supervisor when it's 10:05AM

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1 removed; will you agree with that?

2 A Yes, it does say that.

3 Q We need to stop and change our tape and take a
4 break.

5 VIDEOGRAPHER: We're now off the Record. 10:06AM

6 We're off at 10:05 a.m.

7 (Following a short recess at 10:06
8 a.m., proceedings continued on the Record at 10:10
9 a.m.)

10 VIDEOGRAPHER: We are back on the Record. 10:10AM

11 The time is 10:10 a.m.

12 Q Mr. Alsup, you may close that one, and I'll
13 hand you a new exhibit, No. 28. It's a turkey
14 management handbook, Cargill live production team,
15 Springdale, dated 1990 to '91, and it starts at 10:11AM
16 Bates number 229516. Is this the grow-out
17 management manual that is provided to growers that
18 you referred to earlier in your testimony?

19 A This is -- this would have been given to them,
20 yes. 10:11AM

21 Q Okay. Do you know how long this particular
22 version was used by Cargill?

23 A No, sir.

24 Q Do you know whether or not this particular
25 version that we're looking at has been since revised 10:12AM

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1 and replaced with another version?

2 A Yes, sir, there has been updates done.

3 Q And do you know what is the most recent
4 version that is being used today by LLC?

5 A I believe there was a revision done in '03, 10:12AM
6 '04.

7 Q Okay. So the one that was revised in '03, '04
8 was probably revised by Cargill, Inc., and continued
9 in use by Cargill Turkey, LLC?

10 MR. WALKER: Object to the form. 10:12AM

11 A Sir, I don't know if it was before the June
12 1st. There was a revision done '03, '04 area time
13 frame.

14 Q When is this -- referring to this particular
15 manual when it was in use, how was it distributed to 10:12AM
16 a grower?

17 A At that time it would have been -- the flock
18 supervisors would have hand delivered it.

19 Q And though there are several chapters here and
20 subject matters, what's generally the purpose of 10:13AM
21 this live production team manual or handbook that
22 we're looking at as Exhibit 28?

23 A To give growers a resource to look at.

24 Q Do you know who created this particular manual
25 or who -- let me just ask that. Do you know who 10:13AM

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1 might have created this manual?

2 A I believe Jim Ward created it.

3 Q All right, and was Mr. Ward also responsible
4 for creating the revision that you referred to in
5 '03, '04? 10:13AM

6 A It is possible.

7 Q Was this handbook management and its follow-up
8 revisions provided to growers wherever Cargill had
9 growing facilities, whether it be in Arkansas or
10 Oklahoma? 10:14AM

11 MR. WALKER: Object to the form to the
12 extent you're asking for places outside of the IRW.

13 A It would have been given to growers in the
14 Springdale complex.

15 Q All right. Do you know whether or not this 10:14AM
16 particular manual was provided to growers outside
17 the Springdale complex with maybe a different name
18 or title?

19 MR. WALKER: Object to the form. This
20 witness is not designated to testify to subjects to 10:14AM
21 that question. If you have personal knowledge, go
22 ahead.

23 A Sir, I do not know if this particular one
24 would have been given to other areas.

25 Q Let me ask it this way: Is it generally 10:14AM

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1 Cargill's procedures to operate relatively the same,
2 whether it be an Oklahoma or Arkansas complex or
3 Virginia complex?

4 MR. WALKER: I'm going to object to the
5 form. There are questions, and I'll point to 10:14AM
6 Cargill, Inc., Topic No. 6, that specifically refers
7 to those kinds of issues, and they are reserved for
8 another witness. If you have any personal
9 knowledge, you can answer that question, but I'll
10 also say something in that regard, which is you've 10:15AM
11 taken his personal knowledge deposition. I don't
12 think you're entitled to take it again. Answer, if
13 you can.

14 A Can I have the question again?

15 Q Do the manuals that are used by Cargill 10:15AM
16 generally get used over its entire operating
17 facilities as opposed to specific facilities?

18 A I do not know. Each -- I do believe each
19 complex has a manual. I do not think that -- I
20 don't know if they're the same, similar or what the 10:15AM
21 differences are.

22 Q Are the service techs required to read this
23 grower manual?

24 A The service techs would have been involved in
25 helping make the manual. 10:16AM

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1 Q All right. So I said service tech. Is that
2 what you also know to be a similar name for a flock
3 supervisor?

4 A Yes, sir.

5 Q All right, and I apologize for using a 10:16AM
6 different one, but it seems to be interchangeable
7 from what I'm understanding, but even though they
8 may prepare it, is it expected that the flock
9 supervisor have a working knowledge of the grower
10 manual that's provided to its growers? 10:16AM

11 A They do have a working knowledge.

12 Q Look at page Bates number 229541. It's Page
13 26 of the actual document. This has a revision date
14 it looks like coded at the bottom October 1, 1990.

15 Do you see that? 10:17AM

16 A Yes, sir.

17 Q All right, and in Paragraph B of this
18 particular page, it says remove and spread all caked
19 litter from house, and then it also says in the
20 parenthesis there, do not pile outside of house 10:17AM
21 unless 100 feet away from the house or houses and
22 coughed to prevent groundwater contamination from
23 rain runoff; do you see that?

24 A Yes, sir.

25 Q All right. Can you tell me why Cargill would 10:17AM

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1 require the pile to be 100 feet away from the
2 houses?

3 A Biosecurity.

4 Q All right, and the biosecurity is to protect
5 birds? 10:17AM

6 A Bird health.

7 Q Okay. It's not there to protect humans also?

8 A No. It's bird health.

9 Q Okay, and when it says it's to be covered to
10 prevent groundwater contamination from rain runoff, 10:17AM
11 what is that attempting to tell the grower; what do
12 you understand that to mean?

13 A At that time there was some nitrogen concerns,
14 and my terminology that was given to me at the time
15 was Blue Baby. If nitrates got in the well water, 10:18AM
16 it could cause a condition called Blue Baby, and I
17 don't know about that, but that would have been to
18 address -- I think that Blue Baby thing started with
19 commercial fertilizer and crops, but litter does
20 have nitrates in it, so there was a some -- there 10:18AM
21 may even have been some studies going on or federal
22 and state and local governments were looking at it,
23 but that's what that's addressing.

24 Q Were flock supervisors then advised to watch
25 for these particular instructions and see that 10:18AM

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1 they're carried out?

2 A A flock supervisor would be able to see if a
3 litter pile was not properly covered.

4 Q It also says remove and spread caked litter
5 from house. What does remove and spread mean? 10:19AM

6 A Remove the caked litter from the house, and
7 spread would be to apply it as a fertilizer.

8 Q Okay. Would there be any concerns as you
9 related to biosecurity with the bacteria that exists
10 in the pile? 10:19AM

11 MR. WALKER: Object to the form.

12 Q Let me ask it this way: Is part of the reason
13 for moving this 100 feet away for biosecurity
14 purposes because of the bacteria that remains in the
15 pile of used litter? 10:19AM

16 A If there were any micro -- microbial microbes
17 in there that could affect the next flock, if that's
18 what you're talking about, yeah.

19 Q Do you use the term microbes as meaning
20 bacteria? I was asking about bacteria. 10:20AM

21 A It could be a multiple of things, but bacteria
22 could be one of them.

23 Q Okay. Let's look at Exhibit 29, if you would,
24 please. This is a document called brood barn, and
25 it shows Bates number 144350, revised 8-02; do you 10:20AM

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1 see that on the first page?

2 A Yes.

3 Q Have you seen this document before? This is a
4 ten-page document. Let's talk about the brood barn.

5 I know there's one behind it. Have you seen this 10:21AM
6 particular document?

7 A I do not remember, sir.

8 MR. WALKER: I'm sorry. It's a ten-page
9 document, so there's two documents.

10 MR. GARREN: Correct. I'll talk about 10:21AM
11 them, the first one and then the other. I'm just
12 talking about the brood barn right now, the first
13 ten pages, which ends at 144359.

14 Q Does Cargill know how or what this is used in
15 its operation? 10:21AM

16 A This is if somebody is building a new house, a
17 new farm.

18 Q Okay, and so is this document given to that
19 person in order to have specifications of how and
20 where to build the barn? 10:21AM

21 MR. WALKER: Object to the form.

22 A I don't know if it's given to the grower
23 specifically. It could be, but the contractors that
24 build the turkey houses have this as well.

25 Q Okay, and that contractor would be working for 10:22AM

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1 Cargill or for the grower?

2 A For the grower.

3 Q All right. So this may pass through the
4 grower's hands to its contractor for purposes of
5 building a new barn? 10:22AM

6 MR. WALKER: Object to the form.

7 A I believe that is the -- yes, I believe that's
8 the purpose of this.

9 Q Let me ask you this because it doesn't say
10 anything on there. Is this a document that Cargill 10:22AM
11 would have itself created for that purpose to build
12 a new barn?

13 A Yes, sir, I believe so.

14 Q And so when that barn is built, these
15 specifications are expected to be met in order to 10:22AM
16 grow birds for Cargill in a brood barn?

17 MR. WALKER: Object to the form.

18 A This would have been some minimal standards
19 that needed to be done in a new house, yes.

20 Q Okay. Now, the next document in this is 10:22AM
21 called a grow barn. It looks very similar. It
22 starts at Page 144360 and goes to 369. I think we
23 talked earlier, there's a difference between a brood
24 barn and then the grow-out barn; correct?

25 A Yes, sir. 10:23AM

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1 Q All right. So is this document similar to
2 what we just talked about on the brood barn as
3 showing the minimum specifications for building a
4 new barn that would be used as a grow-out house?

5 A Yes, sir. It appears so. 10:23AM

6 Q Do you know when these -- well, they have a
7 date on them of August of '02 so this would have
8 been Cargill documents. Looking at the very last
9 page of this document, it has a form named
10 acknowledgment. It says, first sentence, I hereby 10:23AM
11 acknowledge that Cargill has provided me with a
12 turkey grower's housing package, which includes an
13 estimated income projection; do you see that?

14 A Yes, sir.

15 Q Tell me what an estimated income projection is 10:24AM
16 that a grower would acknowledge in signing this
17 form.

18 A If a grower, if some individual wants to build
19 a new or at least is looking at building a new farm,
20 new setup, Cargill has this -- the standards, you 10:24AM
21 know, what minimum standards needs to go in the
22 house, but most of these individuals have to go to a
23 bank and borrow money, and Cargill does provide an
24 estimated income projection to give them a general
25 idea of what the income will be. 10:24AM

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1 Q And when you say them, are you talking about
2 the grower or the banker?

3 A We give it to the grower but -- the future --
4 the possible future grower, but they need something
5 to go to the bank with. 10:25AM

6 Q All right. In order to help secure financing
7 to build and have a grow-out facility?

8 A Yes, sir.

9 Q Or a growing facility?

10 A Yes, sir. 10:25AM

11 Q All right. Let's go back now, if you would,
12 to near the front of the document at 144352. It has
13 selecting turkey house site. What is the reason
14 under Provision B that no greater than 50 road miles
15 from Cargill feed mill; what is the reason for that? 10:25AM

16 A At that time I believe in '02 Cargill had that
17 distance from the mill setup, that we really didn't
18 want to go beyond 50 miles from the mill.

19 Q Is that specification different today for the
20 LLC? 10:25AM

21 A Yes, sir.

22 Q What is it today?

23 A I don't know if there's a specific. We have
24 farms further than that now.

25 Q And when you have a new farm come online, do 10:26AM

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1 you want it to be closer or further than a 50-mile
2 radius today?

3 MR. WALKER: Object to the form.

4 Q On LLC?

5 A If it's a good prospect with a good site, it 10:26AM
6 can be longer or further than 50 miles.

7 Q Okay. Do you know what the farthest distance
8 is today of a grow-out facility from the current
9 feed mill in the Springdale complex?

10 A 100 to 110 miles. 10:26AM

11 Q Okay. It says Item D, adequate clean water
12 will be determined prior to construction. Who makes
13 that determination of what clean water is?

14 A The well drillers, the people who drill the
15 well. 10:26AM

16 Q And who makes the decision, Cargill or the
17 grower, as to whether the water satisfies adequate
18 clean description here?

19 A That would be the -- unless they send it off
20 to a lab, that would be the well driller and the 10:27AM
21 grower.

22 Q How would the grower know what is required of
23 them to qualify for adequate clean water as is set
24 out in this description?

25 A Well, to me it means clear water is no oil -- 10:27AM

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1 I don't know the right terminology but physical
2 oils, chemicals in the water, that type of thing.

3 Q Would chemicals include bacteria?

4 A No.

5 Q Okay. Looking at the water supply at the 10:27AM
6 bottom of this page, the last item, Item B,
7 chlorinators will be used on all non-chlorinated
8 water supplies. Why are chlorinators required?

9 A To help with water sanitation.

10 Q Okay, and that's to control the bacteria that 10:28AM
11 may be in the water?

12 A In the house, yes.

13 Q In the house. I'm confused. What do you mean
14 by that?

15 A Well, in a poultry house there may be -- you 10:28AM
16 know, you could have a bird poop in one of them, you
17 know, and when that happens, if you've got
18 chlorination in your water, then you shouldn't have
19 any issues.

20 Q Issues with bacteria from the poop? 10:28AM

21 A Yes, sir.

22 Q All right. Who at Cargill is responsible to
23 see there's compliance with the brood barn and the
24 grow-out barn specifications?

25 MR. WALKER: Object to the form. 10:29AM

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1 Q When a new house is built, who goes out to
2 inspect it to make sure that it complies before it's
3 put online with a grower?

4 MR. WALKER: Object to the form.

5 A At present that would be Brian Delosure. 10:29AM

6 Q What is his title?

7 A Flock supervisor.

8 Q So flock supervisor back when Cargill did it
9 would be the one checking on these specifications
10 when a new house is built? 10:29AM

11 A Yes, sir.

12 Q And they would work with a grower to make sure
13 that they do meet all the specifications; is that
14 correct?

15 A And the contractor, yes. 10:29AM

16 Q Okay. Let me hand you what's been marked as
17 Exhibit No. 30 and ask you if you can tell me what
18 that document is. It's called Class A platinum
19 housing standards for enhanced guarantee. Doesn't
20 appear to have a date on the first page, but it's 10:30AM
21 Bates number 121574. What is that document?

22 A I'm going to have to read it.

23 Q I apologize into interrupting you, but I
24 notice on the very last page there is at least a
25 year 2001 when I said it was undated on the first 10:30AM

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1 page. It might help you put it in perspective.

2 A Okay. This looks like additional new housing
3 standards.

4 Q This appears to say, and I now notice the
5 date, the first sentence, to be eligible for this 10:31AM
6 program, housing must have been brought into
7 production after January of 2002, and it talks about
8 specifications. Does a grower receive greater
9 payment incentives for having an upgraded house; is
10 that what this is referring to? 10:31AM

11 A What this refers to, if a grower meets these
12 new sets of standards, then they would be eligible
13 for this program.

14 Q And that program then would be some type of
15 different payment scheme than what others have in a 10:32AM
16 house with different specifications?

17 MR. WALKER: Object to the form to the
18 extent you are asking questions about a contractual
19 relationship. That is a topic reserved for somebody
20 else. If you have some personal knowledge about 10:32AM
21 that, you can testify to the contractual
22 relationship.

23 Q Let me ask you this way:

24 A Okay.

25 Q Do some of your growers that have grown in the 10:32AM

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1 past when they had different type houses, either by
2 way of condition or size, receive different payments
3 or receive compensation at a different scheme or
4 plan?

5 MR. WALKER: Same objection.

10:32AM

6 A There are some new -- is this Inc. or --

7 Q This is 2002, so this would be Cargill, Inc.

8 A I believe that some of the newer housing that
9 met these standards were compensated different.

10 Q Okay, and these went into effect in '02?

10:33AM

11 A Yes. That's what it says.

12 Q Do you know whether there's a different form
13 or revision than this that exists?

14 A For Cargill, Inc., no, I do not.

15 Q Do you know whether or not for Cargill Turkey
16 Production, LLC, they have revised this form and
17 standards set out on it?

10:33AM

18 A The standards, I don't know if the form has
19 been changed, but I know they're building tunnel
20 housing now, so --

10:33AM

21 Q Okay. Let me hand you Exhibit 31. Do you
22 know a person by the name of Eric Anderson who
23 appears to be the author of this interoffice memo on
24 January 12, '96?

25 A Yes, I believe I do.

10:33AM

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1 Q Do you know what position Mr. Anderson would
2 have been holding in that time frame?

3 A He was in our California, Missouri operation.
4 I -- no, I don't.

5 Q Okay. This talks about an emergency on litter 10:34AM
6 supply. Are you aware -- let me ask it this way:
7 Are you aware there have been new bedding shortages
8 at times in the past?

9 MR. WALKER: I'm going to object to the
10 question. He's just testified that Eric Anderson is 10:34AM
11 in the California, Missouri location. If you're
12 asking about the California, Missouri location, that
13 question is reserved for another witness. If you
14 are asking about --

15 MR. GARREN: I'm asking generally. 10:34AM
16 Generally is he aware of there being new bedding
17 material shortages in the past.

18 MR. WALKER: In the IRW?

19 MR. GARREN: No. Just anywhere.

20 MR. WALKER: He's not here to testify about 10:34AM
21 anywhere.

22 Q Okay. Well, do you know of any in the past?

23 A First, let me clarify something else. This --
24 he went to Rocco as well.

25 Q Let me just stop you. You can in fact turn 10:35AM

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1 that over. I'm not worried about what it says. I
2 just want to ask you generally. Generally are you
3 aware there have been bedding shortages for use in
4 either brood house or grow-out houses in the past?

5 MR. WALKER: Same objection as to the scope 10:35AM
6 of this examination.

7 A For Cargill, Inc., no, sir.

8 Q All right. Are you aware of any for Cargill
9 Turkey, LLC?

10 A No, sir. 10:35AM

11 Q Okay. Now, are you aware that there's been
12 any shortages for bedding materials in the IRW in
13 the past for either the Cargill, Inc. or the LLC?

14 A No, sir.

15 Q I'm sorry, let me ask you, has there been any 10:35AM
16 bedding shortages within the IRW that you're aware
17 of in the past?

18 A Not for Cargill, Inc., or for Turkey Products,
19 LLC.

20 Q Okay. Let me hand you what's been marked as 10:35AM
21 Exhibit 32. This says it's a Cargill Turkey
22 Products turkey breeder minimum housekeeping
23 standards. Do you know what is intended -- what is
24 the intended use for this document? Can you tell by
25 looking at this document who or what this would 10:37AM

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1 apply to? Maybe that may be a starting point.

2 A It looks like they have the -- breeders have
3 flock supervisors that do farm visits as well, and
4 it looks like a document that they would have -- or
5 some standards or kind of what they look for when 10:37AM
6 they visit a breeder operation.

7 Q Okay. Looking at the last page, we see it's
8 created on April 5, '03 and revised May 30th, '03.
9 In the lower right-hand corner there's a BT. Do you
10 know what BT stands for? 10:38AM

11 A No, sir.

12 Q Okay. So that I understand, the breeder barns
13 or breeder facilities are those that are -- those
14 are facilities that are owned by Cargill, Inc., in
15 '03? 10:38AM

16 A Cargill-owned layer facilities.

17 Q Okay. I'm sorry. Do you call them breeders
18 or layer facilities?

19 A Well, breeders are from day one to all the way
20 through their egg production, just general breeders, 10:38AM
21 but Cargill owns only facilities where they actually
22 are in egg production.

23 Q All right. So Cargill does not own a facility
24 that would grow the birds in order to become layers
25 in the breeder facility; is that correct? 10:38AM

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1 A Yes, sir.

2 Q Okay. So this document speaks about turkey
3 breeders, and a flock supervisor then would come to
4 Cargill's breeder operation and make -- use this as
5 some checklist for housekeeping procedures; is that 10:39AM
6 what I understand it to be?

7 A That's the way I'm reading it, yes, sir.

8 Q Does Cargill have any breeder facilities that
9 are operated by contractors?

10 MR. WALKER: What time frame are we talking 10:39AM
11 about?

12 MR. GARREN: Well, I'm still talking about
13 Cargill, Inc.

14 MR. WALKER: In 2003?

15 MR. GARREN: No. 10:39AM

16 Q Just generally do you know whether or not
17 Cargill, Inc., has had breeders that are owned by
18 contract operators, and I'll confine it to the IRW?

19 A No, sir, not layer --

20 Q Let's make sure we're on the same page. I 10:39AM
21 think I had a double negative there. At any time
22 prior to June 1 of 2004, in the IRW did Cargill have
23 contract breeder facilities, contract grower breeder
24 facilities?

25 A Grower breeder where they -- where they're not 10:40AM

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1 laying eggs, yes, sir, Cargill contracts with
2 independent contractors for that.

3 Q And so when I'm saying breeder, then they're
4 raising a bird that's laying eggs or feeding of
5 birds -- I'm sorry. Are they feeding birds that are 10:40AM
6 laying eggs or are they feeding the birds prior to
7 being able to lay eggs?

8 A Prior to.

9 Q Okay. Is that facility called the breeder
10 facility? 10:40AM

11 A I'm familiar with it as a preproduction
12 facility.

13 Q Thank you. I'm just trying to get the term
14 that you know so we're talking about the same thing.

15 A Okay. 10:40AM

16 Q Preproduction facilities, then Cargill has
17 contract growers that operate those in the past;
18 correct?

19 A Yes, sir.

20 Q Does Cargill, LLC, today have contract growers 10:40AM
21 that operate preproduction facilities in the IRW?

22 A Yes, sir.

23 Q All right, but in the IRW today for the LLC
24 the laying facilities are owned and operated by
25 Cargill, LLC; correct? 10:41AM

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1 A Yes, sir.

2 Q And those same facilities, I believe there was
3 six farms; correct?

4 A Yes, sir.

5 Q Those six farms were previously owned by 10:41AM
6 Cargill, Inc., and operated the same way that they
7 are today?

8 A Yes, sir.

9 Q Okay. So when a flock supervisor would be
10 using these minimum housekeeping standards and do 10:41AM
11 their inspection, they are inspecting the
12 Cargill-owned and operated facilities?

13 A Yes, sir.

14 Q Okay. Are you familiar with an entity called
15 Ag Forte? 10:42AM

16 A Yes, sir.

17 Q Tell the court what Ag Forte is in relation to
18 Cargill and its growing facilities.

19 A In -- there was roughly a two and a half
20 period -- two and a half year period of time where 10:42AM
21 Cargill and I think it was Willmar Poultry, and I
22 don't know what Rick VanderSpek, he may or may not
23 have been a part owner, but they started a --
24 another company that was just dealing with breeders.

25 MR. GARREN: Okay, and I know I think 10:42AM

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1 probably, correct me if I'm wrong, Mr. Walker, but
2 somebody else will be speaking about these entities
3 at the next time.

4 MR. WALKER: Correct.

5 Q So I don't want to get into detail. I just 10:43AM
6 want to kind of understand generally, Ag Forte is --
7 what it deals with. Is it dealing with creating
8 eggs that are then grown into turkeys that are then
9 put into Cargill facilities for grow-out?

10 A It was a breeder facility that produced the 10:43AM
11 eggs and hatched the eggs and they sold the baby
12 turkeys.

13 Q Okay, and they did it for Cargill, sold the
14 turkeys to Cargill who then grew them out; is that
15 generally what happened? 10:43AM

16 A Sir, I don't know. They sold them to
17 everybody. It wasn't just -- did they sell to
18 Cargill, yes, but they also sold to many numerous
19 companies.

20 Q Okay, and now you said that was about a two 10:43AM
21 and a half year period. The facilities that were
22 under the control of Ag Forte for that period of
23 time came back to Cargill, Inc.; is that correct?

24 A Yes, sir.

25 Q Okay. Were those facilities located within 10:43AM

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1 the IRW, the egg facilities that you described that
2 was operated by Ag Forte?

3 A The breeder -- the layer facilities?

4 Q Yes, sir.

5 A Yes, sir.

10:44AM

6 Q Where were they located?

7 A It's the same breeder Farms 1 through 6 that
8 we've been talking about.

9 Q Okay. This E-mail, Exhibit No. 36, is from
10 Steve Willardsen. Mr. Willardsen testified
11 previously. He is currently I think the president
12 of Cargill Turkey, LLC; is that right?

10:44AM

13 MR. WALKER: Object to the form. He's not
14 here to testify about organizational structure.

15 Q Generally do you know what position he holds?

10:44AM

16 A He -- he has a position in Wichita and I don't
17 know his exact title.

18 Q Okay. He's kind of at the top of the food
19 chain on management with regard to the LLC at this
20 time?

10:45AM

21 MR. WALKER: Object to the form.

22 A I don't think he works for LLC.

23 Q Okay. Does he have managerial
24 responsibilities over LLC today, if you know?

25 MR. WALKER: Object to the form. You've

10:45AM

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1 to ask him about the contents of this document. Now
2 that you are through objecting by speaking your
3 objection in front of this witness, I'll continue if
4 I may.

5 MR. WALKER: If he has personal knowledge, 10:46AM
6 he should testify to it.

7 MR. GARREN: And did you have an
8 opportunity to explain those rules to him prior to
9 this deposition?

10 MR. WALKER: We have talked about that. 10:46AM

11 MR. GARREN: Okay. So then all you need to
12 do is object to form in accordance with the Rules,
13 if you would, please.

14 Q Now, back to the contents of this document,
15 all I'm trying to do is figure out, sir, that in 10:46AM
16 2003 did Mr. Willardsen have any dealings with the
17 Ag Forte operation?

18 A I don't know. I don't know if there was a
19 board, if he was on a board. I do not know the
20 relationship between Steve Willardsen and Ag Forte. 10:47AM

21 Q Do you know Terry Slagle, who was the
22 recipient of this E-mail in Exhibit 36?

23 A Terry Slagle is currently the breeder
24 operations -- I don't know his exact title but he's
25 over breeder operations. 10:47AM

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1 Q All right. Tell me, what was Cargill's
2 position with regard to clean-out at its breeder
3 operations prior to any involvement by Ag Forte?

4 A What do you mean?

5 Q This document specifically says that Ag 10:47AM
6 Forte's practice is to clean out after every flock.
7 Tell me, what was Cargill's procedure on cleaning
8 out?

9 A In -- for Cargill, Inc., I know that farms
10 have been cleaned out after every flock, but I also 10:48AM
11 know that there have been times when farms weren't
12 cleaned out, so they have done both.

13 Q I appreciate that, but let me it ask this way:
14 What was Cargill's position on how and when the
15 houses were cleaned out prior to the LLC? 10:48AM

16 MR. WALKER: Object to the form.

17 A Well, sir, that would have been -- I don't
18 know all of the -- for our breeder operations what
19 criteria they may have had to clean out or not clean
20 out. I know they've done both but -- 10:49AM

21 Q When you say both, do you mean every year or
22 after every flock and at some other period; is that
23 what you mean?

24 A I mean sometimes they have cleaned out after
25 every flock and sometimes they didn't clean out 10:49AM

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1 after a flock, and they put another -- they
2 disinfected the house, sprayed down. They may have
3 windrowed the litter up or not and put new birds
4 back in on it. I know they have done both.

5 Q Talking generally now at or around the 10:49AM
6 transition period from Cargill, Inc., to the LLC,
7 and at that time were there any changes in the
8 relationship between Cargill, Inc., and its growers
9 after the LLC came into place?

10 A The people were the same. 10:50AM

11 Q Let me ask it this way: With regard to --
12 let's start there. The people generally were the
13 same that went from Cargill, Inc., to Cargill, LLC,
14 I think you said earlier; correct?

15 A Yes, sir. 10:50AM

16 Q All right, but the people that worked for
17 Cargill, LLC, and their relationship with the
18 growers, did that stay essentially the same after
19 that transition?

20 MR. WALKER: Object to the form. 10:50AM

21 A We still kept flock supervisors. There were
22 still a production manager. I mean those people --

23 Q And they continued to perform the same
24 functions for the LLC that they performed with the
25 Inc.; correct? 10:51AM

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1 A Yes, sir.

2 Q Okay, and those functions or those duties and
3 responsibilities that were carried out with regard
4 to the contract growers was essentially the same
5 after the LLC was put in place as compared to before 10:51AM
6 the LLC was in place?

7 A Yes, sir.

8 Q Okay. Let me ask you this: Would you agree
9 that growing turkeys is a part of a core business
10 for Cargill, Inc., turkey products areas? 10:51AM

11 MR. WALKER: Object to the form. What time
12 frame?

13 MR. GARREN: Any time during the time frame
14 that I asked him to use earlier from the time that
15 Cargill, Inc., has been growing in the IRW. 10:51AM

16 A Growing turkeys as they -- is a step in
17 getting birds to the plant if that's what you are
18 asking. It's core to the business operations of
19 growing turkeys or producing turkeys, is it not?

20 MR. WALKER: Object to the form. 10:52AM

21 A Sir, I don't know what you mean by core, but
22 if there's nobody to raise them, there's no birds to
23 process.

24 Q That's fine. Does -- did Cargill -- again,
25 Cargill, Inc., did it consider the work performed by 10:52AM

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1 its contract growers to be integral to the normal
2 business function of Cargill's growing poultry?

3 MR. WALKER: Object to the form.

4 A Again, I don't understand what you mean by
5 integral but, yes, the contract growers raised
6 birds, reared birds for processing.

10:52AM

7 Q Let's go back then. Do you understand what
8 integral means?

9 A Important.

10 Q Important, that's fine. Let me ask it this
11 way then: Was the work performed by the contract
12 growers considered important to Cargill's normal
13 business function?

10:53AM

14 A Yes.

15 Q Is the work performed by the contract grower
16 considered essential to Cargill's growing business?

10:53AM

17 MR. WALKER: Object to the form.

18 A Yes, sir. We don't have any company-owned
19 commercial rearing operations.

20 Q Since Cargill came into the IRW, has it
21 always -- has it continuously used contract growers?

10:53AM

22 A Yes, sir.

23 Q Does Cargill -- is it Cargill's intention to
24 keep growers as long as they can, I mean, to cut
25 down on turnover?

10:54AM

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1 A Yes, sir.

2 Q Even though, and this is not your subject, but
3 generally speaking Cargill has a contract with its
4 growers but the growers -- let me ask it this way:

5 Maybe this is better. Do the contract growers stay 10:54AM
6 with Cargill generally for years at a time?

7 A Yes, sir.

8 Q Okay, and Cargill prefers that, do they not,
9 in order to have some consistency in their
10 production? 10:54AM

11 A Yes, sir.

12 Q Is there a time where contract growers go
13 without flocks because of production schedules? Let
14 me ask it this way: Maybe it's better this way. Do
15 most contract growers except during interim periods 10:55AM
16 between flocks generally keep flocks in their barns?

17 MR. WALKER: Object to the form.

18 A Yes. There's generally birds on a farm unless
19 we've been requested by the contract grower of I
20 want to go on vacation, delay my placement or I want 10:55AM
21 to shut down and do whatever. If they request us
22 not to place them, then they're not placed but --

23 Q Those are short-term periods, though, would
24 you agree?

25 A Yeah, whatever the growers -- the growers 10:56AM

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1 would request that, yes.

2 Q All right, but generally speaking once you
3 have -- once Cargill, Inc., has a contract grower,
4 it's Cargill's goal to continually stock their
5 facility with birds to be grown except for these 10:56AM
6 minor time periods in between flocks; correct?

7 MR. WALKER: Object to the form.

8 A Yes. Cargill places -- tries to place flocks
9 on a regular interval.

10 Q Let me hand you what's been marked as Exhibit 10:56AM
11 91. Now, I'll represent to you that the first two
12 pages, which are marked 170933 of the Bates number
13 and 170937, the very first two pages there, do you
14 see those Bates numbers?

15 A I have 937 and 938. 10:57AM

16 Q Okay. I'm sorry. That's correct. I've got
17 an extra page in mine that you shouldn't have. So
18 what I want to explain to you is how I got these
19 documents so you can understand what I'm looking at,
20 and then we'll talk about them. 10937, the top 10:57AM
21 page, is actually a separate document, but I put it
22 so we can see it in the context and how I received
23 the spreadsheet from Cargill. That's all I'm doing.
24 Okay?

25 A Okay. 10:58AM

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1 MR. WALKER: I'm sorry. I've got to
2 interject. I believe that the document after the
3 first page that you are intending to use as an
4 exhibit has -- you've been put on notice through a
5 letter from Ms. Hill, which she's gone to go get, is 10:58AM
6 subject to a clawback. I believe it's a privileged
7 document, and so if we can take a break or move on
8 to another subject with a different exhibit -- I
9 don't want to burn any time here, but I think we got
10 a privileged document in this document. 10:58AM

11 MR. GARREN: Let's check that and we'll
12 come back to it.

13 MR. WALKER: Thank you.

14 Q Let's talk about a different subject then.
15 All right? It's going to be Item No. 7 for Cargill, 10:58AM
16 Inc., and Item No. 6 for Cargill Turkey Production,
17 LLC, and that Item 7 says, actions, including but
18 not limited to disciplinary actions you have taken,
19 meaning Cargill, or contemplate taking against any
20 of Cargill's poultry growers within the IRW 10:59AM
21 pertaining to the handle, storage, transport, use,
22 spreading on land or disposal of poultry waste. Do
23 you understand that subject?

24 A I believe so.

25 Q Okay. You earlier attempted to identify three 10:59AM

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1 growers, two of whom you named Wheaton and Simmons
2 and the other third you couldn't with regard to some
3 issues with storing poultry litter outside. Do you
4 remember that?

5 A Yes, sir.

10:59AM

6 Q Are there any others where Cargill, Inc., has
7 taken disciplinary actions against a grower
8 regarding the handling, storage, transporting or
9 spreading of poultry waste?

10 A Disciplinary actions as in withholding flocks?

10:59AM

11 Q Any kind of disciplinary action.

12 A No, sir. I think I stated before that when it
13 has been -- an uncovered litter pile has been found,
14 it has been taken care of.

15 Q Okay. Certain environmental laws went into
16 effect in Oklahoma in 1998. Are you familiar with
17 that?

11:00AM

18 A I can't quote the verbatim repeat the laws but
19 I know generally, yes.

20 Q And at any time after those laws went into
21 effect, did Cargill impose any disciplinary action
22 against any of its growers in the IRW with regard to
23 those rules and regulations? Let me ask it this
24 way: It's a little simpler. You seem confused, and
25 I apologize. Maybe it wasn't crafted as well as it

11:00AM

11:01AM

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1 should have been. Has Cargill taken any
2 disciplinary actions against any growers in the IRW
3 for violating state, federal or local rules and
4 regulations?

5 MR. WALKER: Could you read the question 11:01AM
6 back, please?

7 (Whereupon, the court reporter read
8 back the previous question.)

9 MR. WALKER: Object to the form of the
10 question. 11:01AM

11 A Cargill has not been notified from the State
12 of Oklahoma of any violations that deemed that they
13 wanted us to not place birds.

14 MR. GARREN: Did you ascertain whether that
15 Document 91 is part of a clawback? 11:01AM

16 MR. WALKER: Not yet. I'm going to need to
17 make a phone call.

18 MR. GARREN: Can I have the document back
19 then in the meantime?

20 MR. WALKER: Well, I'll need to note which 11:02AM
21 pages it is so I know what it is.

22 MR. GARREN: Okay.

23 Q Now, let me ask you the question again because
24 I understand your answer and it's slightly different
25 than what my question was. Has Cargill imposed any 11:02AM

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1 disciplinary action on any grower within the IRW
2 who's violated state, federal or local rules or
3 regulations?

4 MR. WALKER: Object to the form.

5 A No, sir.

11:02AM

6 Q Okay. To your knowledge has Cargill
7 terminated or let me put it -- has Cargill
8 disciplined any contract grower in the IRW who
9 violated any environmental laws, rules or
10 regulations?

11:02AM

11 MR. WALKER: Object to the form.

12 A Sir, the only two that I could remember was
13 Simmons and Wheaton. There was a long list of
14 things that was happening there. They are no longer
15 contract growers.

11:03AM

16 Q Maybe I should rephrase it this way, and I
17 didn't mean to include them. Other than those two
18 and a third that you don't know but was near
19 Lincoln, has there been any disciplinary action
20 taken by Cargill for its growers violating any
21 environmental laws, rules or regulations?

11:03AM

22 MR. WALKER: Object to the form.

23 A No, sir.

24 Q Now, let me ask you this as it pertains to the
25 LLC. I'll ask you the same questions. Other than

11:03AM

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1 those two that you identified that were --I believe
2 those were involved with Cargill, Inc.; correct?

3 A Uh-huh.

4 Q So those wouldn't be applicable for the LLC
5 questions. Has the LLC disciplined any of its 11:03AM
6 growers for failing to adhere to any environmental
7 laws, rules or regulations?

8 A No, sir.

9 Q Prior to July 1, 1998, did Cargill know what
10 its growers, contract growers did with the poultry 11:04AM
11 waste that was produced by the birds in the barn?

12 A Specifically, no.

13 Q Generally did they know what was done with the
14 poultry waste that was removed prior to 1998?

15 MR. WALKER: Object to the form. 11:04AM

16 A Generally Cargill understood that the turkey
17 litter was being utilized either by them or others
18 as a fertilizer.

19 Q In fact, we saw a document earlier here today
20 that said they should clean out and spread it, and 11:05AM
21 we talked about that being spread on the land;
22 correct?

23 A Yes, sir.

24 Q Okay. Would you agree with me that since 1998
25 Cargill's knowledge, that general knowledge about 11:05AM

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1 what it's done with poultry waste when it's removed
2 from the barn continued? Let me rephrase it. Did
3 Cargill's knowledge of what was done with poultry
4 waste when removed from the barn after 1998 -- I
5 lost me in my thought on that one. Did Cargill
6 continue to know after 1998 what its contract
7 growers did with the poultry waste removed from the
8 barns generally?

11:05AM

9 MR. WALKER: Object to the form.

10 A Generally, yes, sir.

11:06AM

11 Q And that was spread on the land; correct?

12 A To utilize it as a fertilizer, yes, sir.

13 MR. GARREN: Let's take a quick break. We
14 have a tape change that needs to be made.

15 VIDEOGRAPHER: We are now off the Record.

11:06AM

16 The time is 11:06 a.m.

17 (Following a short recess at 11:06
18 a.m., proceedings continued on the Record at 11:22
19 a.m.)

20 VIDEOGRAPHER: We are back on the Record.

11:22AM

21 The time is 11:22 a.m.

22 Q Mr. Alsup, I've put in place in front of you
23 now this document marked Exhibit 91, and let me
24 explain how I got it so you know what we're looking
25 at and we'll then ask some questions about the

11:23AM

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1 document. The first page, which is 170937, was a
2 separate TIF file that was presented by Cargill in
3 the document production. The next page starting at
4 938 where it says in parens spreadsheet for the next
5 three pages, do you see there are three pages that
6 shows a spreadsheet?

11:23AM

7 A Yes, sir.

8 Q I'll represent to you that that is what that
9 document was. It was in electronic form.

10 MR. WALKER: Two pages.

11:24AM

11 A I have two pages.

12 MR. BULLOCK: I think you said you had an
13 extra one stuck in there.

14 MR. GARREN: There should be three.

15 Q May I look at your exhibit? I'm sorry. Okay.

11:24AM

16 Let's shelve this one more time. We have a missing
17 page in there and we'll figure out how to get it
18 redone and we'll come back to it again. Sorry for
19 the interruption. Let's talk about Inquiry No. 10
20 that says, the allegations made in Paragraph 3 of
21 the third-party complaint, which is docket number
22 82, including facts, knowledge, materials or
23 documents relied on in support of the allegations.

11:25AM

24 That will be -- with regard to Cargill Turkey
25 Production, LLC, will be Inquiry No. 9. Okay?

11:25AM

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1 A Okay.

2 Q And in order to make this inquiry go a little
3 easier, I pulled the third-party complaint for that
4 paragraph just so we can see the language, and it's
5 in a little box on the second page of this document. 11:25AM
6 Let me give you this one. It's stapled together.
7 It does have a staple. Okay. You're all right. It
8 was upside down. I apologize.

9 A It's this page?

10 Q Yeah. This is a partial document. The actual 11:26AM
11 document is 19 or 20 pages long.

12 A Okay.

13 Q I just want to ask you about the language
14 that's in Paragraph 3 and what supports it. All
15 right? 11:26AM

16 A Okay.

17 Q So if -- have you read Paragraph 3 in
18 preparation for your deposition in this third-party
19 complaint?

20 A I may have, but let me read it. Okay. 11:26AM

21 Q Do you understand what is being said there by
22 the Cargill Entities, Inc., and Turkey Production,
23 LLC?

24 MR. WALKER: Object to the form.

25 A Well, sir, it was my understanding the -- 11:27AM

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1 Cargill was only part of that third-party complaint
2 with the municipalities and Cargill was not in the
3 other.

4 Q All right. Let me try and help you through
5 this and let's see whether or not you can answer 11:27AM
6 some questions I might have. The Cargill entities,
7 because this was filed in the response to the
8 complaint itself, claim that to the extent that
9 there are any contributions of poultry litter by
10 Cargill or its farmers or growers, they are, in 11:27AM
11 comparison, less than those of the third-party
12 defendants, that the third-party -- that Cargill and
13 other poultry integrators sued in this original
14 action. Do you understand that?

15 MR. WALKER: Object to the form. 11:28AM

16 A Yes, sir, that's what it says.

17 Q Okay. When Cargill made the claim that others
18 would have contributed more or that in comparison
19 that would be insignificant to Cargill's
20 contribution to the overall loading of phosphorus, 11:28AM
21 nitrogen or other harmful constituents, what facts
22 did Cargill have to base that claim on?

23 A There are expert witnesses that are working on
24 that.

25 Q Okay, and at the time that this was made on or 11:28AM

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1 about October 2005, were there experts working at
2 that time to support this allegation?

3 MR. WALKER: Object to the form.

4 A Sir, I do not know when the experts started,
5 no, sir. 11:28AM

6 Q Okay. Are the experts you're referring to
7 experts that were simply hired for this case or were
8 they experts that were otherwise qualified to
9 examine and investigate this type of fact?

10 MR. WALKER: Object to the form. 11:29AM

11 A I believe they were hired for this case.

12 Q Okay. Did Cargill know prior to hiring those
13 investigators or experts to do that investigation
14 whether or not this statement it makes was true?

15 MR. WALKER: Object to the form. 11:29AM

16 A Well, I don't -- I'm assuming Cargill relied
17 on experts to help with that, help with this
18 statement.

19 Q Okay. I'm just trying to quantify or clarify
20 the timing of that. When it made this statement in 11:29AM
21 its pleading in October of 2005, had the experts
22 already been hired that you're referring to to
23 advise them on the claims made in Paragraph 3 of
24 Docket No. 82?

25 MR. WALKER: Object to the form to the -- 11:29AM

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1 it seems to me you are probing into privileged
2 areas. Answer the question, if you can.

3 A Sir, I do not know when the experts were -- I
4 do not know the date the experts were hired.

5 Q Okay. Separate and apart from relying on any 11:30AM
6 experts that you just referred to, did Cargill have
7 in its knowledge facts to support its claim in
8 Paragraph 3 filed in Document 82 in this case?

9 A In reviewing documents for this deposition, I
10 did not see any. 11:30AM

11 Q All right. When Cargill says in this
12 Paragraph 3 of document -- filed Document 82 that
13 the contributions would be insignificant in
14 comparison to the contributions of the third
15 party -- let's start over. I'm not reading that 11:31AM
16 correctly. Any contributions from poultry litter
17 applications by third-party plaintiff are
18 insignificant in comparison to third-party
19 defendants is what is being stated here in general.

20 Did Cargill, in making this statement in October 11:31AM
21 '05, know what contribution Cargill -- plaintiff,
22 the plaintiff Cargill -- this is confusing. Let me
23 back up. Cargill is a third-party plaintiff, not a
24 plaintiff. So I apologize. I'm not trying to
25 confuse you. Let's just use the term Cargill. 11:31AM

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1 A Okay.

2 Q At the time Cargill made this statement that
3 any contribution from it was insignificant compared
4 to third-party defendants, what did Cargill know to
5 be the amount of its contribution in the IRW for 11:31AM
6 phosphorus, nitrogen or other harmful constituents?

7 MR. WALKER: Object to the form.

8 A In reviewing documents for this, I have not
9 seen any documentation to know if Cargill knew if
10 there was any at all. 11:32AM

11 Q Other than not seeing documents, were you
12 advised in preparing for this inquiry whether or not
13 Cargill knew what quantity of contributions it was
14 making or had made with regard to phosphorus,
15 nitrogen or other harmful constituents in the IRW? 11:32AM

16 MR. WALKER: Object to the question to the
17 extent it advises for calling for disclosure of
18 privileged communications. Outside of that, you may
19 answer the question, if you can.

20 A No, sir. 11:32AM

21 Q So you were not advised as to whether or not
22 Cargill had made a determination as to its
23 contribution. Did you have any -- did you have any
24 discussions with anyone who indicated they knew what
25 Cargill's contribution was to phosphorus and 11:33AM

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1 nitrogen and other harmful constituents in the IRW?

2 MR. WALKER: Same objection and
3 instruction.

4 A It's my understanding Cargill has not admitted
5 to any, as it's read here, contributions of 11:33AM
6 phosphorus and nitrogen or other harmful
7 constituents.

8 Q Okay, but it also quantifies it with regard to
9 third-party defendants, so I'm asking if Cargill --
10 what Cargill knew or had at its disposal to 11:34AM
11 determine how to quantify whether its contribution,
12 if any, was insignificant compared to the
13 third-party defendants it brought into this suit in
14 2005?

15 MR. WALKER: Object to the form. 11:34AM

16 A As I stated before, it's my understanding that
17 Cargill has not -- has disagreed that there's any
18 contribution, and I know that expert witnesses are
19 working on that, so that's what I know.

20 Q What did Cargill mean when it said that -- 11:34AM
21 after it says which contribution is denied, would be
22 insignificant in comparison; what does insignificant
23 mean in the terms of this allegation in Paragraph 3
24 of this document?

25 A Sir, I don't know. 11:35AM

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1 Q So you saw no documents or have not been
2 advised as to a quantity in order to make such a
3 comparison to determine it's insignificant; is that
4 what I understand you to say?

5 MR. WALKER: Object to the form. 11:35AM

6 A I have said that Cargill has disagreed that
7 they are contributors of any of these and that
8 they're using expert witnesses to determine the rest
9 of that paragraph.

10 Q Okay. Again, you saw no documents or have not 11:35AM
11 been advised as to any quantity in order to make a
12 determination for a comparison of what Cargill may
13 or may not have contributed versus third-party
14 defendants; correct?

15 MR. WALKER: Same objection about 11:36AM
16 privilege. Answer, if you can, outside of that.

17 A No.

18 Q Do you know that prior to October 2005 whether
19 Cargill has performed any sampling within the IRW to
20 support its allegations in the third-party 11:36AM
21 complaint, Paragraph 3?

22 A Cargill has not sampled.

23 Q Would that -- would your answer be the same if
24 I asked the same question with regard to the LLC?

25 Let me ask, has Cargill, the LLC, performed any 11:36AM

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1 sampling that would prove or disprove the
2 allegations made in Paragraph 3 of the third-party
3 complaint?

4 A No, sir.

5 Q To your knowledge has Cargill or Cargill, LLC, 11:36AM
6 performed any TMDL, that is, a total mass daily
7 loading study, on the IRW prior to October 2005?

8 A No, sir.

9 Q When you are saying no, sir, no, sir means
10 they did not; correct? 11:37AM

11 A They did not.

12 Q Okay. Was Cargill to your knowledge in
13 possession of any report that supports the
14 allegation made in Paragraph 3 of the third-party
15 complaint filed in October of 2005? 11:37AM

16 A I have not been privileged to see the expert
17 witnesses if -- what they have done. I do not know.

18 Q Other than the experts?

19 A No, sir.

20 Q Okay. Let's change a little bit topic here, 11:37AM
21 same topic but different subject. Cargill is aware
22 of the Arkansas Poultry Federation known as The
23 Poultry Federation; correct?

24 A Yes, sir.

25 Q And Cargill, Inc., and now Cargill, LLC, have 11:38AM

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1 been members of that federation; is that correct?

2 MR. WALKER: I'm going to object. Those
3 questions about membership in those groups are the
4 subject of Topic No. 11, which is reserved for
5 another witness. 11:38AM

6 MR. GARREN: I'm just trying to set some
7 predicates now that you've made your objection.

8 Q Cargill Turkey and Cargill, LLC -- Cargill,
9 Inc., and LLC have been members of the Federation;
10 correct? 11:38AM

11 A I believe so, yes.

12 Q Let me hand you what's been marked as Exhibit
13 18.

14 MR. WALKER: Mr. Garren, before you get
15 into a question, you presented Exhibit 18. It says 11:39AM
16 on its face Arkansas Poultry Federation. Topic No.
17 11 of your 30(b)(6) notice specifically talks about
18 communications, membership in The Poultry
19 Federation. That is a topic reserved for another
20 witness. This witness is not being offered to 11:39AM
21 testify about The Poultry Federation.

22 MR. GARREN: Okay.

23 Q Have you seen this document before in
24 preparation of your deposition?

25 MR. WALKER: This is a document labeled TSN 11:40AM

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1 7294T -- I can't even tell.

2 MR. GARREN: TU.

3 MR. WALKER: TU.

4 A Okay. What was your --

5 Q Okay. Cargill, LLC, has been members of The 11:40AM
6 Poultry Federation, have they not?

7 MR. WALKER: Mr. Garren, I'm objecting.

8 It's outside of the scope. You talk about laying

9 predicate. You're asking about membership, and you

10 are asking him to bind the company, and he's not 11:41AM

11 here to bind the company. If you have personal

12 knowledge about that, you can testify about it.

13 Q Do you know that, sir?

14 A I believe they have.

15 Q All right. Now, do you know whether or not 11:41AM

16 the Cargill, Inc., or Cargill Turkey relies on

17 information from -- produced from or disseminated by

18 the Federation at times?

19 MR. WALKER: Same objection. You can

20 testify as to your personal knowledge. You're not 11:41AM

21 offered on the subject of The Poultry Federation for

22 this deposition.

23 A I do not.

24 Q Okay. Have you seen yourself literature

25 produced by or disseminated from The Poultry 11:41AM

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1 Federation in your responsibilities with Cargill or
2 Cargill, LLC?

3 A I'm on a mailing, and I forgot. It's Poultry
4 Socket I think. There's a gentleman that's out of
5 Missouri. It's mainly Missouri issues I think, but 11:42AM
6 I think he works for the Federation.

7 Q Okay. Looking at the second page of this
8 Exhibit No. 18, the title of this says, information
9 about the impact of the poultry industry on water
10 quality in Oklahoma and Arkansas. Did you see that? 11:42AM

11 A Yes, sir, I've seen it.

12 Q Is Cargill, Inc., familiar with the project
13 referred to on the second paragraph as the Muddy
14 Fork water quality project?

15 MR. WALKER: Same objection to the extent 11:42AM
16 it's a Poultry Federation document.

17 A I have heard of it. I've heard of that, but I
18 don't know any specifics about it.

19 Q Cargill, Inc., is it familiar with the Moores
20 Creek water quality project? 11:42AM

21 A They have heard about it.

22 Q And did Cargill, Inc., participate in the
23 Moores Creek water quality project that was later
24 referred to as the Muddy Fork water quality project?

25 A No, sir. 11:43AM

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1 Q Did Cargill, Inc., provide any contributions
2 financially to support the Muddy Fork now or
3 previously the Moores Creek water quality project?

4 A Not that I'm aware of.

5 Q You personally or is this Cargill not aware? 11:43AM

6 A I have seen -- in my document search, I have
7 seen no -- anything to say that we contributed money
8 to any of this.

9 Q And in your discussions with those individuals
10 you named at the outset of this deposition, did you 11:43AM
11 discuss the issue with regard to involvement in
12 Moores Creek study?

13 A Not Moores Creek. I had heard about Muddy
14 Fork from one of them.

15 Q Do you understand it's the same project but 11:44AM
16 just referred to differently?

17 A No, I didn't but --

18 Q Okay. Do you understand that now?

19 A Since you've told me, yes, sir.

20 Q Okay. At the next page of this document, the 11:44AM
21 third paragraph has some percentages listed there.
22 Do you see that paragraph?

23 A Where it says phosphorus problems?

24 Q Yes, sir.

25 A Okay. 11:44AM

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1 Q And that paragraph goes to say, statistical
2 information about Benton County, Arkansas compiled
3 by the Arkansas Agricultural Statistics Service and
4 livestock phosphorus data compiled by the National
5 Resource Conservation Service estimated the 11:44AM
6 following phosphorus contributions from various
7 agricultural activities and then colon. Did I read
8 that substantially correct?

9 A Yes, sir.

10 Q It says at the very top one, poultry which is 11:44AM
11 broiler/turkey is 73 percent of phosphorus
12 contribution; do you see that?

13 A Yes, sir.

14 Q All right, and this document was attached to a
15 letter written to the editor of the Tulsa World in 11:45AM
16 September of 1997. Is Cargill familiar with the
17 document that's attached to the letter that has
18 these statistics in it?

19 MR. WALKER: Object to the form. You may
20 answer. 11:45AM

21 A No, sir.

22 Q Cargill is not familiar with this document
23 then?

24 A I am not familiar with this document.

25 Q You or Cargill? 11:45AM

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1 A I do not know in talking with any of the
2 people that I've talked to or looking through
3 documents that anybody is aware of this document.

4 Q Okay. Does -- is Cargill aware of the
5 Arkansas Agricultural Statistics Service?

11:45AM

6 MR. WALKER: Mr. Garren, what subject are
7 we on?

8 MR. GARREN: We're still on the subject
9 that supports the allegation in the third-party
10 complaint, and I'm trying to figure out how Cargill
11 can make such a complaint and what data was
12 available to them.

11:46AM

13 MR. WALKER: I don't see the link. He's
14 already testified about the third-party complaint.
15 You're asking him questions about a document he's
16 never seen.

11:46AM

17 MR. GARREN: I'm asking Cargill for the
18 Record.

19 A Sir, I --

20 MR. WALKER: And he's not here to testify
21 about The Poultry Federation documents and Poultry
22 Federation relationship. You've presented a TSN
23 labeled document to this witness. I think you are
24 out of scope here.

11:46AM

25 MR. GARREN: Your objection, please, limit

11:46AM

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1 it as is required by the Rule. That's all I ask.

2 MR. WALKER: I'm just trying to talk with
3 you. I'm not trying to talk with the witness.

4 MR. GARREN: But you are doing so in front
5 of the witness. 11:46AM

6 MR. WALKER: We can take a break.

7 MR. GARREN: The witness can be removed if
8 you want to continue to make speaking objections and
9 we'll go off the Record because I don't want it
10 burned on my time when you continue to do this. I'm 11:46AM
11 asking you to comply with the Rule, Mr. Walker.

12 MR. WALKER: And I'm asking you to comply
13 with your own notice.

14 MR. GARREN: You know, I'm going to ask him
15 questions that are proper predicate questions as to 11:46AM
16 whether or not Cargill knew or should have known
17 evidence that would submit and support its
18 statement. All right?

19 MR. WALKER: Okay, and I'll just leave a
20 standing objection then that he's been designated to 11:47AM
21 testify on the subjects you're well aware of, and
22 I've got a standing objection as to this line of
23 questioning because I don't see where you are going,
24 and I don't think you're making a logical connection
25 that you stating that you are trying to make. Go 11:47AM

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1 ahead and ask your questions.

2 MR. GARREN: Mr. Walker, I'm going to ask
3 you to refrain from doing that again, and I don't
4 want to have to call the magistrate. We had a
5 specific conversation with the magistrate yesterday 11:47AM
6 about the speaking objections and that he does not
7 approve them, and they're not allowed by the Rules.
8 So, please, do not do it again.

9 MR. WALKER: I understand that.

10 Q Do you see where this document refers to 11:47AM
11 source information from the Agricultural Statistics
12 Service of Arkansas?

13 MR. WALKER: Same objection.

14 A I see that, yes.

15 Q All right. Is Cargill familiar with that 11:48AM
16 service that provides information similar to what we
17 see here?

18 MR. WALKER: Same objection.

19 A Do not know.

20 Q Is Cargill familiar with the National Resource 11:48AM
21 Conservation Service?

22 MR. WALKER: Same objection.

23 A I believe that is a service with the State of
24 Arkansas.

25 Q And Cargill is familiar with it; correct? 11:48AM

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1 A I don't know what familiar means, but I know
2 that exists.

3 Q And does Cargill know what kind of information
4 they publish or what literature comes from that
5 service? 11:48AM

6 MR. WALKER: Object to the form.

7 A No, sir, I do not know all what they do.

8 Q Does Cargill know what literature or materials
9 are either published or disseminated by the National
10 Resource Conservation Service? 11:49AM

11 MR. WALKER: Object to the form.

12 A No, sir.

13 Q Okay. Did Cargill, in advance of its making
14 its statement in October of 2005 in Paragraph 3 of
15 its third-party complaint, consult with either the 11:49AM
16 Agricultural Statistical Service or the National
17 Resource Conservation Service about contribution
18 loading in the Illinois River watershed?

19 A No, sir.

20 Q Do you know whether Cargill made any inquiries 11:49AM
21 of any other type of service or agency of the --
22 either Arkansas or Oklahoma that would compile data
23 with regard to phosphorus, nitrogen or other harmful
24 loading to the Illinois River watershed?

25 A No, sir, I do not know. 11:49AM

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1 Q All right. My question then is, did they in
2 fact access or seek out any information from any
3 other service than the two I just named in order to
4 support the claim in Paragraph 3?

5 A Sir, in prepping for this deposition, I did 11:49AM
6 not see any information in that -- in regards to
7 that.

8 Q Were you advised of any information that
9 supported the Paragraph 3 other than the experts
10 you've testified you think have been hired? 11:50AM

11 A No, sir.

12 Q Do you know whether or not Cargill made a
13 search of any published literature that would
14 support the claim that -- with regard to its
15 Paragraph 3 in the third-party complaint? 11:50AM

16 A Such as legal counsel doing it?

17 Q No. Published literature.

18 MR. WALKER: Object to the form.

19 A Not to my knowledge.

20 Q Okay. Were you -- you were designated to talk 11:50AM
21 about industry practice and Cargill's contract
22 poultry growers' practice regarding handling,
23 storage, spreading on land of poultry waste, were
24 you not, Item No. 27?

25 A Yes, sir. 11:51AM

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1 Q And the corresponding item for Cargill Turkey
2 Production, LLC, would be No. 29 in Cargill Turkey
3 Production, LLC's notice; correct? It is. I'll
4 tell you it is.

5 A Okay.

6 Q That's the corresponding number. Also, I'm
7 going to kind of talk about both of these subjects
8 because they're fairly close. Practices, policies,
9 recommendations, procedures, past and present,
10 pertaining to the management, handling, storage, 11:51AM
11 transportation, sale, trading, spreading on land,
12 disposition and disposal of poultry waste generated
13 by Cargill poultry growing operations in the IRW,
14 either by Cargill, its affiliate, subsidiaries,
15 employees and agents or others growing poultry on 11:52AM
16 behalf of Cargill. Did you understand that was a
17 subject you were to testify to?

18 A Yes, sir.

19 Q Okay. Previous testimony, probably by you and
20 others, is that Cargill is dedicated to being a good 11:52AM
21 environmental steward in all facets of its business;
22 is that a fair statement?

23 A Yes, sir.

24 Q All right. Would you agree with me, sir, that
25 the environmental best management handbook was not 11:52AM

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1 created by Cargill, Inc., but in fact borrowed, if
2 you will, or taken from Rocco, Inc.'s environmental
3 best management handbook for its creation?

4 MR. WALKER: Object to the form.

5 A The stand-alone document was created by Tim 11:52AM
6 Maupin.

7 Q And do you know the source of the information
8 that Tim Maupin used to create that environmental
9 best management handbook?

10 A Yes. He told me it was the State of Virginia 11:53AM
11 and the Virginia Extension Service.

12 Q Okay, and it came from almost verbatim from
13 Rocco, Inc.'s manual they had in place prior to the
14 2001 acquisition; correct?

15 A I don't remember how many edits there were, 11:53AM
16 but it was a close resemblance, yes.

17 Q Okay, and, in fact, Cargill adopted Rocco's
18 version of the environmental best management
19 handbook; correct?

20 A I believe so, yes. 11:53AM

21 Q All right. Cargill, before that adoption of
22 the Rocco handbook, had no environmental best
23 management practices in place; correct?

24 A No, sir.

25 Q No, sir, what? 11:53AM

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1 A We had best management practices.

2 Q No, sir. Did you have a handbook that was an
3 environmental best management handbook?

4 A A standalone handbook that said environmental
5 BMPs, no, sir, we did not. 11:54AM

6 Q All right. Did Cargill, Inc., have a written
7 environmental policy for its growers prior to 2002?

8 A Cargill has had an environmental policy, in my
9 research I found, since the late '80's.

10 Q Did Cargill have a written environmental 11:54AM
11 policy for its growers?

12 MR. WALKER: Object to the form.

13 A Was it labeled contract grower environmental
14 policy, I -- in my research I have not found one
15 that's labeled that, no, sir. 11:54AM

16 Q Did Cargill have a written environmental best
17 management practices policy that it gave to its
18 growers prior to the adoption of this handbook in
19 2002?

20 A Environmental BMPs were handed out to the 11:54AM
21 growers. It didn't have a Cargill stamp on it. We
22 were using state information from Arkansas and
23 Oklahoma. As those BMPs kind of came out, changed,
24 evolved, communication came out, we did pass all
25 those BMPs to the growers, yes, sir. 11:55AM

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1 Q Okay, and those were BMPs that were generated
2 by the states that you just mentioned. My question
3 to you is, did Cargill itself have a written
4 environmental policy for best management practices
5 besides the adoption of the handbook in 2002? 11:55AM

6 MR. WALKER: Object to the form.

7 A Well, no, sir. It was already being provided
8 by the states, and they're a great resource, so we
9 used those.

10 Q Okay. That's fine. I'm just trying to 11:55AM
11 understand that you relied on the state for any of
12 that prior to 2002?

13 MR. WALKER: Object to the form. That's
14 not his testimony.

15 A We gave out information from the states, 11:55AM
16 education, BMPs from the states.

17 Q You would agree, sir, that awareness of
18 environmental effects of Cargill's business would be
19 an important element to being a good environmental
20 steward? 11:56AM

21 A Could you repeat that question?

22 Q Would you agree that awareness of
23 environmental effects of Cargill's poultry growing
24 business is an important element to being a good
25 environmental steward? 11:56AM

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1 A As knowing your footprint or where your
2 footprint, yes, sir.

3 Q What do you mean by that?

4 A Well, as you do business in any area, you --
5 there is a footprint being made, and it ranges from 11:56AM
6 using water, utilities and using packaging
7 materials, papers to I don't know, generating trash
8 for landfills to -- it's a broad scope. When I look
9 at a footprint, it would be a lot of things.

10 Q Would it include the handling, storage and 11:57AM
11 disposition of the poultry waste generated by the
12 Cargill turkeys?

13 MR. WALKER: Object to the form.

14 Q Let me restate it. Would you agree that the
15 handling, storage and disposition of Cargill birds' 11:57AM
16 poultry waste would be an awareness of importance
17 with regard to that -- the effects of its --
18 Cargill's operations on the environment?

19 MR. WALKER: Object to the form.

20 A In the operations, yes, Cargill breeder farms 11:58AM
21 do produce litter.

22 Q Let me hand you what's been marked as Exhibit
23 9B I believe. Are you familiar with the Cargill
24 Turkey Products, Inc.; on the very first page, are
25 you familiar with Cargill Turkey Products, Inc.? 11:59AM

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1 A That would be Cargill, Inc., Incorporated.

2 Q If you don't know, just tell me you don't
3 know.

4 A I don't know.

5 Q Okay. Do you recognize that name as being one 11:59AM
6 of the subsidiaries or operational arms of the
7 turkey growing business that Cargill operated?

8 MR. WALKER: Object as to the scope of the
9 examination. Answer, if you know.

10 A I believe at one time we could have had 11:59AM
11 Cargill Turkey Products, Inc.

12 Q Okay. You in fact said early on at the very
13 outset of the deposition you thought you were
14 employed by them but --

15 A Yeah. 12:00PM

16 Q -- I'm not trying to go into that area. Do
17 you recognize this best management practices guide
18 that I've put in front of you?

19 A I have seen this before, yes.

20 Q Okay. Looking at Page 154 of the document 12:00PM
21 that shows the heading introduction, nutrient
22 management planning, do you see that?

23 A Yes, sir.

24 Q Reading a sentence I think would be the --
25 looks like the third sentence, the goal of farm 12:00PM

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1 nutrient management planning is to minimize adverse
2 environmental effects primarily upon water quality
3 and to avoid unnecessary nutrient applications above
4 the point of optimization so long-run net farm
5 financial returns are optimized, and it doesn't say 12:00PM
6 optimized, but did I read that correct?

7 A Yes, sir.

8 Q Is that what you understand to be the goal of
9 the environmental best management practices guide
10 that Cargill has created, at least as we see in this 12:01PM
11 document?

12 A Well, a farm nutrient management plan is made
13 to utilize nutrients efficiently and to minimize any
14 risk of water quality.

15 Q Okay, and that's essentially what the goal 12:01PM
16 that's stated here, is it not?

17 MR. WALKER: Object to the form.

18 A Well, sir, without getting into whatever word
19 means, but I take that to mean a farm nutrient
20 management plan helps utilize nutrients effectively 12:01PM
21 and economically, and by using it properly, it
22 reduces the risk of any water quality issues that
23 could arise.

24 Q Okay. So the goal of the farm nutrient
25 planning is to reduce adverse environmental effects 12:02PM

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1 primarily upon water quality. That's what it states
2 here; correct?

3 A Uh-huh.

4 Q Reading down to the sentence after that
5 sentence it says, it should be recognized that some 12:02PM
6 level of nutrient loss to surface and groundwater
7 will occur despite following the recommendations in
8 this manual; did I read that correctly?

9 A Yes, sir.

10 Q And this was published by Cargill Turkey 12:02PM
11 Products, Inc., in April of 2002, correct, based on
12 the first page of this document, was it not?

13 MR. WALKER: Object to the form.

14 A Yes, sir.

15 Q And was this document, Exhibit 9B, distributed 12:02PM
16 to its poultry growers, Cargill's poultry growers?

17 A Yes, it was distributed to our contract
18 growers.

19 Q And would that include those within the IRW?

20 A Yes, sir. 12:02PM

21 Q All right. Did Cargill intend for its poultry
22 growers to rely on the statements made in this best
23 management practices guide?

24 A It was put together -- Cargill assimilated it.
25 Cargill didn't write any of it. It was put together 12:03PM

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1 by Tim Maupin. He took a lot of this, a lot of
2 these kind of verbatim from some information from
3 like the State of Virginia and the extension
4 service, so if that's what you are asking. It was
5 kind of assimilated; it wasn't written. 12:03PM

6 Q That wasn't what I asked, but let me ask you
7 this: Did Cargill want its growers to read this
8 document and understand it?

9 A Cargill put this document out there as a
10 resource for the growers, yes, sir. 12:03PM

11 Q And as a resource, they would expect and want
12 their growers to read it?

13 A Yes, sir.

14 Q All right, and in assimilating this
15 information, do you know whether or not there are 12:03PM
16 any disclaimers in this document that statements
17 made in here may or may not be true?

18 A Sir, I do not know. I can read it and see if
19 there is. I do not know. I do not know this
20 document verbatim and what's on every page. 12:04PM

21 Q Do you know whether or not Cargill, when it
22 distributed this best management practices, also
23 advised its growers they didn't need to rely on it
24 because it may not be true?

25 MR. WALKER: Object to the form. 12:04PM

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1 A When it was distributed, it was said that this
2 is a resource and it was to be used as a resource.
3 It was not told to them that this is the absolute
4 truth. They were told it was written by some state
5 services, and this was just being passed out as a 12:04PM
6 general overview BMP guide.

7 Q Who would have been responsible for
8 distributing this manual to the Cargill growers?

9 A The ag managers.

10 Q And in 2002 who would that have been in the 12:05PM
11 IRW?

12 A I believe that would have been Jim Ward.

13 Q Okay. What did Cargill do in advance of
14 distributing this information to its growers to
15 ascertain or verify the truth of the statement that 12:05PM
16 I read to you that it should be recognized at some
17 level nutrient loss to surface and groundwater will
18 occur despite following the recommendations in this
19 manual?

20 A Sir, there was no -- according to Tim Maupin, 12:05PM
21 there was no verification of anything that was put
22 in here. Like I say, he just pulled it together
23 from previously written materials as a general
24 information source for the contract growers.

25 Q In April 2002 when this was distributed or on 12:06PM

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1 or about that time to its growers, did Cargill
2 understand and believe that some level of nutrient
3 loss to surface and groundwater will occur despite
4 following the recommendations in this manual?

5 A No, we did. We did not agree. 12:06PM

6 Q You did not agree with that statement?

7 A Huh-uh.

8 Q And what did Cargill do or what did Cargill
9 have in its possession to dispute that statement?

10 A We have -- to dispute it, we haven't seen any 12:06PM
11 information to say that that happens.

12 Q Why would Cargill publish this to its growers
13 if it didn't believe it was true?

14 A Well, it's -- this statement is a pretty
15 strong statement, and at the time Tim -- I think 12:06PM
16 when he copied it over, even though Cargill didn't
17 agree with all of it, it was meant to get the

18 growers' attention and to talk about the risk, talk
19 about the issues and, you know, I think it shows
20 pretty good management of Cargill that what was out 12:07PM

21 there, we gave it to them. I mean just because we
22 didn't agree with that one statement, he still
23 copied the whole thing and gave it to them.

24 Q Okay. I'm going to hand you what's been
25 marked as 9C. This is a Cargill Turkey Products 12:07PM

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1 contract grower environmental best management
2 practices guide starting at Bates number CARTP 005.
3 Have you seen this document?

4 A Without going through and comparing it, it
5 looks like a comparable document to what you just 12:08PM
6 showed me.

7 Q Looking at Page 009 in the same -- this
8 appears to be the identical paragraph. It says it
9 should be recognized that some level, nutrient loss
10 to surface and groundwater will occur despite 12:08PM
11 following the recommendations in this manual.
12 That's the same language we saw in the previous one,
13 is it not?

14 A Yes, sir.

15 Q And between -- let me ask you, did this second 12:08PM
16 manual that we're looking at get distributed to its
17 growers, Cargill's growers?

18 A Well, I don't know. It looks like the same.
19 I don't know why it's got different front pages on
20 it. It could be from a different complex. I don't 12:09PM
21 know, but I would -- yes, I would assume that this
22 was given to the contract producers.

23 Q Okay. I'll ask you to go back to 9B document
24 at Page 155 of that document. Under the category
25 phosphorus and in the second paragraph, first 12:10PM

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1 sentence it says, phosphorus-laden soils can be
2 eroded by rainfall and the particles can then be
3 transported into surface waters. Excessive
4 phosphorus in surface waters can cause excessive
5 plant and algae growth. Excessive algae growth can 12:10PM
6 contribute to fish kills by depleting the dissolved
7 oxygen content of the water. Did Cargill believe
8 that statement was true when it was published in
9 April of 2002?

10 A Well, sir, Cargill understands that soils can 12:10PM
11 be eroded by rainfall if proper coverage isn't
12 there. We do understand that if nutrients are not
13 properly utilized and applied with BMPs, that there
14 could be an increased risk of some runoff.

15 Q Okay. So as I understand it, you've said now 12:11PM
16 that phosphorus-laden soils can be eroded by
17 rainfall and the particles can be transported in the
18 surface waters. Cargill agrees with that; correct?

19 MR. WALKER: Object to the form.

20 A No, sir. What I said was soils -- Cargill 12:11PM
21 understands that soils could be eroded and that if
22 nutrients are not applied correctly, using BMPs,
23 NMPs, that there is an increased risk that
24 phosphorus or just nutrients in general could enter
25 our way, waterway. 12:11PM

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1 Q At the time this was published in 2002, did
2 Cargill understand and agree that excessive
3 phosphorus can cause excessive plant and algae
4 growth?

5 A Sir, Cargill was aware that studies were being 12:12PM
6 done, academia was looking at it, states were
7 looking at it, of what effects nutrients had in the
8 water. We were not doing any studies, but we were
9 aware that that was being done.

10 Q Okay. Was Cargill aware then that excessive 12:12PM
11 phosphorus in surface waters could cause excessive
12 plant and algae growth?

13 A We were aware those studies were being done.

14 Q I'm asking you not whether you were aware of a
15 study. I'm asking whether or not Cargill agrees at 12:12PM
16 the time in 2002 that excess phosphorus in the
17 surface water can cause excessive plant and algae
18 growth?

19 A Well, sir, I don't know if we -- in my
20 studying and prepping for this, I never ran in -- 12:13PM
21 talked to anybody that was an expert on algae growth
22 and what happens when nutrients enter the water. We
23 understand that Cargill understood that that was a
24 concern. We understand that that was being looked
25 at. What levels that is, what locations that are -- 12:13PM

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1 that is, Cargill's relied on states and academia to
2 publish that and to be the experts there.

3 Q Okay. Did Cargill know in 2002 when it
4 published this handbook that excessive algae growth
5 can contribute to fish kills by depleting dissolved 12:13PM
6 oxygen?

7 A This statement was pulled from a publication
8 from the State of Virginia and if -- did we do
9 anything to check that out, no.

10 Q At any time did you do anything to check out 12:14PM
11 whether that statement was true?

12 A No. We relied on the State of Virginia or
13 this was done relying on the State of Virginia and
14 the extension service.

15 Q Let me hand you what's been marked as Exhibit 12:14PM
16 86 and ask you to look at that document, please. Do
17 you recognize this as a Cargill environmental audit
18 as its title states?

19 A That is the title.

20 Q Do you see the revision date of June 2002 at 12:15PM
21 the very bottom in the small type? I think it's
22 carried over as a footer on all these pages.

23 A Yes, sir.

24 Q Can you tell me where Cargill utilizes this
25 Cargill environmental audit form that we're looking 12:16PM

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1 at?

2 MR. WALKER: Just --

3 A Let me -- let me look through it.

4 MR. WALKER: Mr. Garren, what topic are we

5 on? 12:16PM

6 MR. GARREN: Practices, procedures. I
7 believe the numbers are 28, 27 and the corresponding
8 one with regard to Cargill Turkey, LLC.

9 MR. WALKER: We'll see. I'm not sure what
10 questions you have about this. We'll see. 12:17PM

11 MR. GARREN: There are probably a couple
12 other subjects. I can dig them out if you want.

13 MR. WALKER: We'll just see where you go.

14 A Okay. I'm sorry.

15 Q Okay. Can you tell me, sir, where Cargill 12:17PM
16 utilizes this particular document, where and how?

17 A I do not know particularly. It looks like a
18 plant document but I do not know that.

19 Q Do you know whether or not this document was
20 used for poultry processing plants? 12:18PM

21 A I do not know for sure, no, sir. It is
22 possible.

23 Q Do you know who would perform the audit in
24 using this form?

25 A Maybe somebody in the plant, EHS department. 12:18PM

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1 Q Do you know -- since this talks about a
2 revision in June of 2002, that to me means there
3 probably was a prior version since this is a
4 revision. Do you know when Cargill began
5 instituting this environmental audit? 12:18PM

6 A No, sir.

7 MR. WALKER: Object to the form.

8 Q Do you know whether or not this or any portion
9 of the environmental audit, Exhibit No. 98 or 86, is
10 utilized directly in relation to poultry growing 12:19PM
11 operations?

12 A Can you ask that one more time?

13 Q Do you know whether or not this audit or any
14 portion of it is applied to use in the poultry
15 growing operations of Cargill? 12:19PM

16 A No, sir, it is not.

17 Q Okay.

18 MR. GARREN: We are, I think, running out
19 of time on the tape, so we'll take a break and come
20 back. Those on the phone, we'll try to do it in an 12:19PM
21 hour. That would be about 1:20.

22 VIDEOGRAPHER: We are now off the Record.
23 The time is 12:19 p.m.

24 (Following a lunch recess at 12:19
25 p.m., proceedings continued on the Record at 1:27

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1 p.m.)

2 VIDEOGRAPHER: We are back on the Record.

3 The time is 1:26 p.m.

4 Q Mr. Maupin (sic), I'll remind you that even
5 though we've been on our lunch break, you are still 01:27PM
6 under oath; do you understand that?

7 MS. HILL: Mr. Alsup.

8 Q I apologize. Mr. Alsup, did I say Maupin? I
9 apologize. You understand you are still under oath?

10 A Yes, sir. 01:27PM

11 Q All right. Let me hand you now what's been
12 marked as Exhibit 91, and I believe that now is in
13 proper order for examination. The first page of
14 that document was just to show in context that the
15 spreadsheet wasn't necessarily with something else. 01:27PM
16 Are you familiar with what's referred to as an
17 independent contractor worksheet?

18 A No, sir.

19 Q Go to Page 170939. Have you seen this
20 independent contractor policy before? 01:27PM

21 A Sir, all mine say 170938.

22 MS. HILL: Keep going.

23 Q There will be three pages of the 938, which is
24 the spreadsheet we saw there.

25 A Oh, okay, I'm sorry. 01:28PM

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1 Q Just so you're clear and we're both clear,
2 this 938 is an electronic spreadsheet that printed
3 out like this and so it has the same number on it
4 even though it's a single spreadsheet.

5 A Okay. I'm sorry. 01:28PM

6 Q So back to 939 --

7 A Yes, sir.

8 Q -- are you familiar with the independent
9 contractor policy?

10 A No, sir. 01:28PM

11 Q Who at Cargill would be knowledgeable about
12 the independent contractor policy and this
13 worksheet?

14 A Sir, this looks like something that would be
15 done in a plant. 01:28PM

16 Q Let me ask you to look at the 170939, and in
17 the last Cargill, there appears to be a date at the
18 top there with some initials. Do you know who TWJ
19 would be, assuming those are initials?

20 A No, sir, I do not. 01:29PM

21 Q And that date appears to be August 4, '04; do
22 you see that?

23 A Yes, sir, I do.

24 Q So that would be after the creation of the
25 LLC; would you agree? 01:29PM

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1 A Yes, sir.

2 Q Okay. Looking at the first page of the
3 spreadsheet, which is 938, where the title says
4 independent contractor worksheet, in small print
5 underneath that heading in the second paragraph it 01:29PM
6 says, this worksheet must be completed prior to
7 hiring the proposed contractor and must be completed
8 regardless of whether such individuals being hired
9 under a master temporary service agreement -- I'm
10 sorry, master temporary service agreement, for 01:29PM
11 example, Kelly Service or Manpower, or under a
12 separate independent contractor agreement. Do you
13 see that?

14 A Yes, sir.

15 Q And I'm going to ask you, sir, since this is 01:30PM
16 after August of '04, does Cargill Turkey, LLC, use
17 this worksheet in hiring independent contractors?

18 MR. WALKER: Object to the scope as beyond
19 the -- object as beyond the scope of what he's been
20 offered to testify to today. 01:30PM

21 A I do not know.

22 Q Okay. You have not seen this being used in
23 the grow-out facilities or areas where you actually
24 perform your duties?

25 A No, sir, it is not being used. 01:30PM

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1 Q So has Cargill, LLC, recently hired any
2 independent contractors, specifically growers,
3 since -- well, let's put it this way: Since October
4 (sic) 4, 2004 have any Cargill -- have any contract
5 growers been hired to work under contract with 01:30PM
6 Cargill Turkey, LLC?

7 MR. WALKER: Object to the form.

8 A Hired to -- since --

9 Q Let me rephrase it; let me just rephrase it.
10 Since August 4, 2004, has Cargill, LLC, entered into 01:31PM
11 a contract with an independent contract grower?

12 A Yes, sir.

13 Q All right, and within the IRW?

14 A A new one, no, sir.

15 Q There are no independent contractors who have 01:31PM
16 signed contracts with Cargill, LLC, since August 4,
17 2004?

18 A Not new, new that were not previous growers.
19 There has been -- if they were a contract grower
20 already, they would have -- they would still be 01:31PM
21 under contract.

22 Q Okay. Well, don't they -- don't your contract
23 growers sign a new contract annually or every
24 eighteen months?

25 MR. WALKER: Object to the form, beyond the 01:32PM

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1 scope of this witness' testimony for what he's
2 offered today.

3 A Roughly yearly, yes, sir.

4 Q Okay. So would you agree with me that your
5 contract growers are providing services under a 01:32PM
6 separate contract which asserts the grower is doing
7 so as an independent contractor?

8 MR. WALKER: Same objection.

9 A You mean -- we contract with them to use their
10 facilities to rear birds if that's what you're 01:32PM
11 asking.

12 Q Let me ask this: You agree that contract
13 growers provide services for Cargill, LLC, pursuant
14 to a written contract?

15 A Yes, sir, they raise birds. 01:32PM

16 Q Okay, and would you agree with me that the
17 work that a contract grower provides is not a unique
18 short-term need of Cargill of less than a year?

19 A No, sir. It's a unique job. They do do a
20 unique job. 01:33PM

21 Q How is it so unique, sir?

22 A Well, they have their -- it's their own
23 operations. They have -- not everybody can be a
24 contract grower. It takes a special person, special
25 mentality and a special drive to want to be out 01:33PM

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1 there on your own place and farm it.

2 Q Okay. Let me ask you this in this context, in
3 the context of Cargill, LLC: Is having a contract
4 grower unique to its business?

5 MR. WALKER: Object to the form. 01:33PM

6 A I don't understand what you mean by unique.
7 Cargill Turkey Products, LLC, contracts with
8 contractors or -- contracts with people to raise
9 birds. Is it -- is it -- did you mean by unique, is
10 it unusual? No, it's not unusual. It's -- 01:34PM

11 Q It's typically what's been done since Cargill,
12 Inc., started and has continued to be done since
13 Cargill Turkey, LLC, hires contract workers;
14 correct?

15 A We do contract with farmers to raise poultry, 01:34PM
16 yes, sir.

17 Q Okay. For purposes of the LLC's business in
18 growing poultry and providing poultry wholesale and
19 retail to the public, would you agree with me that
20 the job of a grower is expected to last for some 01:34PM
21 period of time to supply those needs?

22 A It lasts as long as the grower is under
23 contract. At the end of the contract, they can go
24 grow for anybody they want to.

25 Q But you said earlier, generally speaking, most 01:35PM

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1 of them continue with Cargill, and you've had pretty
2 good success in keeping them around for a number of
3 years, haven't you?

4 A Well, yes, sir. It's their choice to want to
5 stay with us or to go with somebody else. 01:35PM

6 Q Again, that wasn't my question, but I
7 understand your statement. Let me ask you this:
8 Are the contract growers utilized in any way to
9 develop business or customer relationships for
10 Cargill, LLC? 01:35PM

11 A Are you talking about customers that buy
12 products out of the plant?

13 Q Let me ask it again, sir. Just try and listen
14 to me. Agree that the growers are not used to
15 develop business or customer relationships? 01:35PM

16 A Sir, I'm sorry, I don't understand what you're
17 talking about about developing a business -- a
18 business relationship with who?

19 Q Other people, other people that you do
20 business with at Cargill, LLC. 01:36PM

21 MR. WALKER: Object to the form.

22 A I don't know if our contractors know who our
23 soap suppliers are for the plants or the grocery
24 stores that buy the turkey.

25 Q You don't rely on them to go out there for 01:36PM

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1 customer relations and to promote Cargill and to
2 bring new growers to the business on a regular
3 basis, do you?

4 MR. WALKER: Object to the form.

5 A We do not go ask contract growers to go out 01:36PM
6 and recruit and try to get new contract growers.

7 Q Okay. The contract growers, they operate on
8 their own facilities, not on sites owned by Cargill;
9 correct?

10 A Yes, sir. 01:37PM

11 Q Do your contract growers provide to Cargill,
12 LLC, any estimates before they perform services for
13 Cargill, LLC, cost estimates? Did I say that? Let
14 me rephrase it. Do the Cargill contract growers
15 before they sign a contract provide cost estimates 01:37PM
16 to Cargill, LLC, before performing any services to
17 Cargill, LLC?

18 A No, sir.

19 Q Are the contract growers allowed to
20 participate in any formal recognition programs 01:38PM
21 typically provided for employees of Cargill, LLC?

22 A No, sir.

23 Q Let me hand you what's been marked Exhibit 90.
24 This is another environmental best management
25 practice guide dated January of '03; do you see 01:38PM

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1 that, sir?

2 A Yes, sir.

3 Q I'd like to refer you to Page 346 of this

4 document and confirm, if you will, Cargill's

5 knowledge with regard to poultry manure, and under

01:39PM

6 the heading phosphorus, it says in the very first

7 sentence, poultry manure is also composed of

8 relatively large amounts of phosphorus. Does

9 Cargill understand and believe that statement?

10 A Cargill understands that phosphate is found in

01:39PM

11 turkey litter.

12 Q This says poultry manure is also composed of

13 relatively large amounts of phosphorus. Does

14 Cargill agree with that statement as being true?

15 MR. WALKER: Object to the form.

01:39PM

16 A No.

17 Q It doesn't?

18 A (Witness shakes head from side to side).

19 Q This is a document it gives to its growers.

20 We've established that.

01:39PM

21 A Yes, sir.

22 Q Why would Cargill disseminate something they

23 didn't believe to be true to its contract growers?

24 A Sir, as we've stated earlier when we talked

25 about the other two ones, this was -- Tim Maupin put

01:39PM

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1 this together from a compilation from the State of
2 Virginia and the Virginia Extension Service. A lot
3 of the words and terminology they used, and this was
4 not -- this was meant to be just a resource for the
5 contract growers. 01:40PM

6 Q Now, let me ask you this, sir, does Cargill
7 believe this statement is true: Poultry manure is
8 also composed of relatively large amounts of
9 phosphorus, yes or no?

10 MR. WALKER: Object to the form. 01:40PM

11 A No, Cargill does not agree that there is a
12 large amount of phosphorus.

13 Q And tell me then again, sir, why would
14 Cargill, if it doesn't believe this statement,
15 produce it to its contract growers to rely on? 01:41PM

16 MR. WALKER: Object to the form.

17 A Okay. This was put together by Tim Maupin,
18 and he used the State of Virginia, State of Virginia
19 Extension Service to copulate (sic) stuff that they
20 had out there. He didn't reword it. He just put it 01:41PM
21 in there as a resource for the growers. It was --
22 it doesn't -- the only opinions I guess that you
23 could say that it would have any opinions on what it
24 said or how it was written would be the people who
25 wrote it. This was just to be used as a resource. 01:41PM

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1 It's nothing more.

2 Q And as a resource, wouldn't you want that
3 resource for its contract -- for your contract
4 growers to have accurate information?

5 A Sir, as a resource of something that's already 01:42PM
6 been written on literature is a resource. Cargill
7 doesn't edit -- this was not done to -- he didn't
8 take stuff that was already written down and edit it
9 and make it one way or another. He copied it
10 straight out of a publication that was in the state 01:42PM
11 of Virginia. It was nothing more than that.

12 Q Let me ask it this way: What does Cargill
13 know to be the constituents of poultry manure?

14 A What is in poultry manure?

15 Q Yes. What are the constituents of poultry 01:42PM
16 manure?

17 A There's bedding. There is --

18 Q Poultry manure, sir, isn't that different than
19 bedding, manure being just the excrement that comes
20 from the bird? 01:43PM

21 A I was assuming you were talking about litter
22 itself.

23 Q Well, my definition has been to use poultry
24 waste. So poultry manure is different, and I
25 understand that to mean excrement and urine 01:43PM

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1 produced. So maybe if you didn't understand, I'll
2 ask it again then. Does Cargill, LLC, know that
3 poultry manure is composed of relatively large
4 amounts of phosphorus?

5 A No. We disagree with that.

01:43PM

6 Q Okay, and, again, I know you've told me how
7 this got disseminated, but let me ask you why again
8 Cargill would disseminate information it does not
9 believe to be true to its contract growers?

10 A Trying to be -- to pass on information from
11 state agencies, that just because we disagree with
12 it doesn't mean that we're not going to give it to
13 them.

01:43PM

14 Q Okay. Where can I find in this document where
15 this is essentially a resource and not the opinion
16 of Cargill?

01:43PM

17 A Well, I think -- in this version there's not,
18 but there is a version that I've seen that just says
19 it's to be used as a resource for the growers. I
20 don't know if this was just a copy that was going
21 through an edit or if this was one that was actually
22 given to the contract grower.

01:44PM

23 Q Notwithstanding that you think that there's
24 another one that says it's just a resource, is it
25 still Cargill's position that it would disseminate

01:44PM

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1 false or inaccurate material to its contract growers
2 as a resource?

3 A Sir --

4 MR. WALKER: Object to the form of the
5 question. It's contrary to his testimony. 01:44PM

6 A I didn't say it was false. I just said we
7 didn't agree with it. We have not gone out and
8 measured a turkey dropping for anything, which you
9 said it was the actual manure excreted out of the
10 bird. So we have no information to see what that 01:45PM
11 is. I have no idea what the author was meaning by
12 large, and so that is why Cargill disagrees with
13 that statement.

14 Q All right. You made a statement and I want to
15 follow up on it. You are saying that Cargill, Inc., 01:45PM
16 has not gone out and tested poultry manure; is that
17 your statement?

18 A I do not know of any tests that has been done
19 testing the actual manure.

20 Q Okay. Would you agree with me, though, that 01:45PM
21 Cargill has waste analysis performed in order to
22 satisfy laws with regard to spreading of the poultry
23 waste?

24 A Cargill has tested litter, turkey litter, but
25 that is not what you -- that's not what you said you 01:46PM

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1 were talking about.

2 Q I understand. I'm just trying to confirm that
3 there is a distinction, and you confirmed that, but
4 at no time Cargill, Inc., or now Cargill Turkey,
5 LLC, has tested for the constituents of poultry 01:46PM
6 manure and that's your statement for Cargill;
7 correct?

8 A Your definition of poultry manure was what was
9 actually excreted out of the bird with no bedding
10 material. I do not know of any test that's been 01:46PM
11 done by Cargill just to do what I would call a
12 dropping, a bird dropping.

13 Q Go ahead.

14 A And to clarify, Cargill has for a litter test
15 in a house with bedding and feed and all the 01:46PM
16 constituents that we talked about earlier, there
17 have been a litter analysis done.

18 Q Okay, and with regard to poultry manure, has
19 Cargill, LLC, undergone any testing to determine the
20 constituents of the poultry manure? 01:47PM

21 MR. WALKER: Object to the form.

22 A No, sir.

23 Q Okay. Let me hand you what's been marked as
24 Exhibit 53. I believe you and I have looked at this
25 document before. Do you recall these environmental 01:48PM

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1 audits and this PowerPoint slide, Exhibit 53?

2 A We have looked at --

3 Q Examples of --

4 A Yes.

5 MR. WALKER: Are you referring to the first 01:48PM
6 page? I'm sorry. I'm confused.

7 MR. GARREN: Your witness was referring to
8 the pages other than the first page as the
9 environmental audits.

10 MR. WALKER: You were calling this a 01:48PM
11 presentation?

12 MR. GARREN: No, no.

13 MR. WALKER: Okay. I'm sorry.

14 Q Looking at the first page, which appears to be
15 a PowerPoint slide, am I correct in understanding 01:48PM
16 that the farm audits that fall after that first page
17 are -- they're there for purposes of giving uniform
18 feedback twice a year to Cargill producers about
19 environmental concerns; is this -- is the audit that
20 we're seeing, the second page to the end, the form 01:49PM
21 that's referred to in the PowerPoint slide on the
22 first page of Exhibit 53?

23 A Sir, without knowing the entire PowerPoint,
24 yes, this is the form that we do -- try to do twice
25 a year. 01:49PM

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1 Q All right, and recognizing that's the form, is
2 the purpose of the form different than what this
3 slide says, to give uniform feedback about
4 environmental concerns?

5 A It is to give -- it's to give feedback, and it 01:49PM
6 composes more than just the environment, but it has
7 visual appearance, airborne, mortality. It covers
8 quite a bit but, yes.

9 Q When did Cargill, Inc., commence use of
10 environmental audits similar to what we see 01:50PM
11 beginning at Page 258183?

12 A I believe in '02.

13 Q Okay. Do you know what time in '02?

14 A No. The exact date I don't know.

15 Q Is this environmental audit form conducted on 01:50PM
16 farms within the IRW, both the Oklahoma and Arkansas
17 side?

18 A Yes, sir.

19 Q The form is prepared by a flock supervisor on
20 an inspection to a farm; is that correct? 01:50PM

21 A Yes, sir.

22 Q And the grower's signature is obtained on the
23 form at the time that it's done; is that correct?

24 A Yes, sir.

25 Q And what becomes of the form after that 01:51PM

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1 occurs?

2 A It goes to the grow-out manager, ag manager's
3 office.

4 Q Why did Cargill, Inc., wait until 2002 to
5 inform itself about what was going on on these 01:51PM
6 contract growers' farms from an environmental
7 standpoint?

8 MR. WALKER: Object to the form.

9 A Cargill did not wait until 2002.

10 Q When did Cargill first begin educating or 01:51PM
11 bringing itself to knowledge of what was going on on
12 the contract growers' farm from an environmental
13 standpoint?

14 MR. WALKER: Object to the form.

15 A As I believe we talked earlier, I have seen 01:51PM
16 documentation back to 1990 that -- such as litter
17 piles that were improperly covered, was being
18 addressed back then.

19 Q Okay. Other than that, was there anything
20 else done besides that? 01:52PM

21 A Well, it's always -- there's always been -- I
22 don't know if it would be a farm appearance, but if
23 -- back in the early '90's if the growers didn't
24 kind of mow around their houses and weeds got up
25 above the curtain and blocked airflow, it could 01:52PM

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1 cause harm to the bird, so I mean --

2 Q Okay. I'm dealing with environmental stuff.

3 Let me ask you this: When you said back in the

4 early '90's when they would report litter piles that

5 were improperly maintained, would there be written

01:52PM

6 reports of that prepared by flock supervisors?

7 MR. WALKER: Object to the form.

8 A Sir, I do not know. It's possible.

9 Q Did you make any inquiry of anybody in your

10 preparation today to be aware of whether or not

01:53PM

11 there were any other forms of environmental audits

12 that may have been conducted by Cargill, Inc., on

13 its contract growers?

14 A There was not such a thing as an environmental

15 audit but, as I said, as the flock supervisors

01:53PM

16 visited the farm, they have always given feedback.

17 It may not be classified as an environmental audit,

18 but on trip reports or some of the earlier things we

19 looked at, they could note it there.

20 Q If a flock supervisor witnessed a grower

01:54PM

21 spreading the poultry waste from a Cargill operation

22 in a manner that was not in accordance with best

23 management plans, would the flock supervisor notify

24 that grower or write a report about it occurring?

25 MR. WALKER: Object to the form.

01:54PM

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1 A Sir, the flock supervisor does not know what
2 is in the NMPs of an independent contractor.

3 Q And before 1998, can you tell me how many
4 contract growers for Cargill had nutrient management
5 plans? 01:54PM

6 A No, sir, I cannot.

7 Q Do you know when Cargill requested for the
8 first time that its growers have nutrient management
9 plans?

10 A Other than -- it would be -- I don't know 01:54PM
11 when -- if the states -- it would be when the states
12 first requested it. So in Oklahoma it would be '98.
13 I don't know about Virginia and Texas. Arkansas
14 is -- we've asked them to do it but it would be --
15 it went into the contract in '04, January 1 of '04 01:55PM
16 for everybody.

17 Q Before 1998 can you tell me how many contract
18 growers had nutrient management plans?

19 A No, sir, I cannot.

20 Q If a flock supervisor witnessed a grower 01:55PM
21 before 1998 improperly land applying poultry waste
22 from a Cargill facility, would a report be made by
23 that flock supervisor?

24 MR. WALKER: Object to the form.

25 A Well, sir, the contract grower has his own 01:56PM

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1 plan and his own facility. They don't -- for one
2 thing, they don't spread -- I don't know of too many
3 cases or any case where they spread litter right
4 next to the houses. So in -- and a flock supervisor
5 does not travel all over the farm. So I know of no 01:56PM
6 instance ever of that ever happening.

7 Q Of what happening?

8 A Of a flock supervisor seeing, actually even
9 seeing them spread litter. I don't ever remember
10 asking that question or being told that. 01:56PM

11 Q When you say I, are you talking about Cargill,
12 Inc.?

13 A Yes, sir.

14 Q Wouldn't Cargill, Inc., have some concerns
15 that the application of the poultry waste was being 01:57PM
16 done in a way that might create harm to the
17 environment?

18 A Cargill is -- Cargill is there to be a
19 resource to give -- if something comes from the
20 states, from extension to let these independent 01:57PM
21 contractors know best management practice guides,
22 what the states are either requiring or their
23 individual best management practice guides -- but it
24 is up to the independent contractor to follow all
25 those rules and regulations on their facility. 01:57PM

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1 Q Would you agree with me, sir, that before 1998
2 there were no such rules and regulations in the IRW
3 as to the appropriate method for land application of
4 poultry waste?

5 MR. WALKER: Object to the form. 01:57PM

6 A In my research and doing -- going through
7 documents, I have not seen any rules and regulations
8 from the states in the IRW.

9 Q Not any or confined to a time? I'm not
10 understanding your answer. 01:58PM

11 A Well, you asked me about before 1990. I have
12 not seen anything before 1990 from a state
13 regulation standpoint.

14 Q So you would agree with me, though, sir, even
15 though you said 1990, that before 1998 there were no 01:58PM
16 rules or regulations of either Arkansas or Oklahoma
17 regarding the land application of poultry waste?

18 MR. WALKER: Object to the form.

19 A Yes, before 1998, I agree with that.

20 Q And before 1998 but since the early 1990's 01:58PM
21 when Cargill knew that best management practices
22 should be followed, if one of Cargill's flock
23 supervisors saw best management practices not being
24 followed by its contract grower, would it write up a
25 report or talk to the grower about it or what would 01:59PM

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1 it do?

2 MR. WALKER: Object to the form.

3 A As stated before, when we saw litter piles
4 that were improperly covered, yes, sir, we would --
5 it would be addressed with the grower. 01:59PM

6 Q Let me hand you what's been marked as Exhibit
7 98, and this is a document signed or with the name
8 attached of Mr. Tim Maupin.

9 MR. WALKER: Mr. Garren, what topic are we
10 on? 02:00PM

11 MR. GARREN: Environmental practices,
12 poultry growing practices.

13 MR. WALKER: Which one?

14 MR. GARREN: Both general and specific.

15 MR. WALKER: Just give me a number. 02:00PM

16 MR. GARREN: I just gave you a subject. I
17 don't remember the number. It's 27 and 28.

18 MR. WALKER: 27 and 28?

19 Q Have you ever seen this document, purportedly
20 signed by Mr. Maupin, the director of environmental 02:00PM
21 affairs, dated October 4, 2002?

22 A No, sir, I have not.

23 Q Do you know whether or not this particular
24 letter was issued by Mr. Maupin, director of
25 environmental affairs, to growers in the IRW? 02:01PM

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1 A It is my belief that if it was issued to
2 anybody, it would be Virginia, the Virginia growers.

3 Q Do you know whether or not a letter similar to
4 this was issued by Mr. Maupin, director of
5 environmental affairs, for those in the IRW that 02:01PM
6 would have attached the environmental audit form
7 that was attached to this document?

8 A I do not remember this going out and I don't
9 -- no, sir, I do not.

10 Q How did the growers in the IRW become informed 02:02PM
11 that Cargill was going to implement farm audits?

12 A By the flock supervisors.

13 Q Okay. So would it have been done verbally in
14 Oklahoma as opposed to in writing as Mr. Maupin did
15 in 2002? 02:02PM

16 MR. WALKER: Object to the form.

17 A My recollection is, yes, it was done verbally.

18 Q Okay, and it was done verbally only then in
19 the IRW or was it done verbally elsewhere?

20 A In the Springdale complex. 02:02PM

21 Q Were the growers provided a sample form in
22 order to look at it to know what we were going to be
23 audited for?

24 A I do not know.

25 Q Was the consent obtained from any of the 02:02PM

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1 contract growers to provide such an environmental
2 audit of their facilities?

3 MR. WALKER: Object to the form.

4 A Consent, what do you mean?

5 Q Well, did Cargill -- did Cargill obtain 02:03PM
6 written consent from any contract grower to allow a
7 farm environmental audit to take place on their
8 property?

9 A Well, sir, the audit, they were doing a lot --
10 they were doing most of this anyway. The only -- 02:03PM
11 so, no, there was no consent done.

12 Q Okay. Does Cargill, Inc., know whether
13 poultry manure contains pathogens?

14 A I don't understand your definition of
15 pathogens, but Cargill has not done any testing in 02:04PM
16 regards to turkey litter, with one exception. There
17 has been some testing for some Salmonella that I
18 think infected turkeys back a few years back. That
19 is the only testing that I know.

20 Q And was a test done solely for that bacteria? 02:04PM

21 A Yes, sir.

22 Q What caused Cargill to conduct such tests?

23 A Bird health.

24 Q Does Cargill know what the term runoff means
25 as it pertains to poultry waste being spread on the 02:06PM

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1 land?

2 MR. WALKER: Object to the form.

3 A Just a straight definition of runoff?

4 Q Yes. Does Cargill, Inc., understand what the

5 term runoff means in the context of describing a

02:06PM

6 field that have had poultry waste applied to it?

7 MR. WALKER: Object to the form.

8 A Cargill generally understands what the word

9 runoff means.

10 Q And tell me what Cargill understands that term

02:07PM

11 to mean.

12 A Nutrients that move from one area to another.

13 Q When did Cargill first know the meaning of

14 that term in that context?

15 A I do not know.

02:07PM

16 Q If you don't know, who would know?

17 A Sir, in my research and looking through

18 documents and talking to people, I didn't ask them

19 what terms they knew and when they knew it, so I

20 don't know.

02:07PM

21 Q You were requested to educate yourself and be

22 aware of the knowledge or awareness of the runoff,

23 discharge, release of poultry waste or any

24 constituents thereof from land or locations upon

25 which poultry waste generated by your poultry

02:08PM

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1 growing operations within the IRW has been stored,
2 spread -- spread on or disposed of. Do you
3 understand that Item No. 33 on your inquiry list?

4 A Yes, sir.

5 Q Okay, and you're telling me you've not made 02:08PM
6 any inquiry to determine whether Cargill, Inc.,
7 understands that term and can apply it in the
8 context?

9 MR. WALKER: Object to the form. That
10 wasn't your question. 02:08PM

11 A I did not ask any employee when or if they
12 understood or asked their definition of runoff.

13 Q Okay, and given your knowledge or awareness of
14 runoff, can you tell me when Cargill first knew when
15 any runoff of poultry waste from any land upon which 02:09PM
16 poultry waste has been generated -- let me redo it.
17 When did Cargill first have any knowledge or
18 awareness of the runoff of poultry waste from any
19 land or locations on which poultry waste, which was
20 generated by your poultry growing operations within 02:09PM
21 the IRW, was either stored, spread or disposed of?

22 MR. WALKER: Object to the form.

23 A Cargill does not know of any runoff from any
24 contract producer.

25 Q Okay. Or any land on which poultry waste has 02:09PM

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1 been generated by your birds has been spread,
2 stored?

3 A Cargill does not know of any runoff.

4 Q Has Cargill --

5 MR. WALKER: Let him finish his answer. 02:09PM

6 MR. GARREN: I'm sorry. I thought he was.

7 Q Are you done? If you're not, please, I'll
8 reask it.

9 MR. WALKER: I think you were talking over
10 each other. 02:10PM

11 A Cargill doesn't know of any runoff from any
12 lands. I think that's where we were.

13 Q And has Cargill, in order to not know that,
14 made any independent investigation to determine
15 whether it in fact has occurred? 02:10PM

16 MR. WALKER: Object to the form.

17 A No, sir, Cargill has not tested.

18 Q Okay. Other than by testing, has Cargill done
19 anything to determine independently whether in fact
20 runoff has occurred from lands within the IRW upon 02:10PM
21 which poultry waste generated by your birds has been
22 spread or disposed of?

23 MR. WALKER: Object to the form.

24 A No, sir.

25 Q Does Cargill understand the term leaching as 02:10PM

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1 it applies to nutrients moving into the groundwater?

2 A Yes.

3 Q Okay. Did Cargill, when it moved into the
4 IRW, make any investigation as to the type of soils
5 that were within the IRW where its poultry growing
6 operations were located?

02:11PM

7 A No, sir.

8 Q Does Cargill know generally what is the kind
9 of geology that is found within the IRW?

10 A No, sir.

02:12PM

11 Q Has Cargill made any inquiry or investigation
12 as to determine what is the kind of geology that you
13 would find within the IRW?

14 A No, sir.

15 Q Is Cargill familiar with the term Karst
16 geology?

02:12PM

17 A Possibly.

18 Q Tell me what Cargill believes it to be.

19 A Let me think. I take Karst geology to be rock
20 or dirt that is not solid.

02:13PM

21 Q Okay. Does Cargill agree that poultry manure
22 can contain trace amounts of copper, selenium, nickel
23 and zinc?

24 A Turkey litter does contain some
25 micronutrients.

02:13PM

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1 Q My question, though, is, does poultry manure
2 contain trace amounts of copper, selenium, nickel and
3 zinc; does Cargill know that?

4 A Yes, sir, I believe Cargill knows that.

5 Q Do you know when Cargill first would have 02:13PM
6 known that?

7 A When -- I believe there's a micronutrient test
8 on -- when litter tests are done, which has some of
9 those elements or some of those nutrients in it.

10 Q So that's part of the testing for litter or 02:14PM
11 used poultry waste, those elements; is that what
12 you're saying?

13 A Sir, without actually seeing it, I don't know
14 if every one of those are on a test, but there are
15 some micronutrients that are on there. 02:14PM

16 Q Okay. We may get to those later then. Look
17 at 9B that's the environmental best management
18 practice manual again, in particular Page 157.

19 A I'm sorry?

20 Q Page 157 are the Bates numbers. There's a 02:15PM
21 statement made in this environmental best management
22 practices manual dated April 2, 2002 that says at
23 the top of that page, some fields are more likely to
24 contribute nutrients to ground and surface water
25 than others. Does Cargill know what that means in 02:15PM

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1 the context that it's written here?

2 A Well, sir, Cargill, as far as I know, doesn't
3 have a geologist on staff but -- so, no, I don't
4 think Cargill would have the expertise to tell which
5 soils that would be true for. 02:16PM

6 Q Let me just ask this because I don't think you
7 answered my question. I just asked you does Cargill
8 know in the context that this sentence is written
9 here what it means?

10 MR. WALKER: Object to the form. 02:17PM

11 A Well, sir, as we stated before, this comes out
12 of the State of Virginia, the state extension
13 service. It was pulled from some documents that
14 they had. In doing my research and talking to
15 people for this deposition, I do not know if -- 02:17PM
16 there was -- and I didn't discover anything that
17 they knew anything about soils or geology or
18 anything else, so --

19 Q My question, though, is, does Cargill, sitting
20 here today, Cargill, Inc., or Cargill Turkey, LLC, 02:17PM
21 know in the context that that sentence is written in
22 this best management practice manual what it means?

23 MR. WALKER: Object to the form.

24 Q I understand you don't have a geologist. I
25 understand you've talked to people. My question is, 02:17PM

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1 does Cargill know what that sentence means?

2 A Well, sir, if you take it literally from -- I
3 don't know what the author is -- it says that some
4 fields are different, and it doesn't say anything
5 about BMPs, how it was handled, how it was applied. 02:18PM
6 You don't know any of that, and then it jumps
7 straight to can contribute nutrients to ground and
8 surface water. Without knowing how it was applied,
9 how much, forages and all that, there's no way to
10 know that. 02:18PM

11 Q So your answer is Cargill doesn't know?

12 A No.

13 Q Is that what I am to understand?

14 A Yes, sir, Cargill does not know.

15 Q Okay, thank you. You're familiar you, are you 02:18PM
16 not, with the Precision Ag model and that program;
17 correct?

18 A Yes, sir.

19 Q I think we've looked at this before, but let
20 me hand you my Exhibit No. 12, and I think you and I 02:19PM
21 talked about the program in -- and I want you to
22 look at this document at 121968, if you would,
23 please, and the map that is there.

24 A 121968?

25 Q Do you see the map that's on that page, sir, 02:19PM

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1 that says northwest Arkansas poultry litter project
2 phosphorus levels?

3 A Yes, sir.

4 Q All right, and based on the key or the legend,
5 it shows, if I'm not mistaken, that northwest
6 Arkansas is high in phosphorus soil test levels; do
7 you see that on the left-hand legend that shows the
8 color coding?

02:19PM

9 A Yes, sir.

10 Q And at the lower right-hand corner, there
11 appears to be a date of October -- I'm sorry,
12 February 10th of '03; do you see that in the small
13 print, lower right-hand corner?

02:20PM

14 A Yes.

15 Q Would you agree with me, sir, that at least at
16 or around this time, this document would show to
17 Cargill, Inc., that the fields in northwest Arkansas
18 were high in levels of phosphorus; is that a fair
19 statement?

02:20PM

20 A That is what this map represents.

02:20PM

21 Q And as part of the Precision Ag model, it was
22 Cargill's goal to transport poultry waste from the
23 area of northwest Arkansas into that area that's
24 circled on this map in southeast Kansas; correct?

25 MR. WALKER: Object to the form.

02:20PM

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1 A The goal of Precision Ag was to set up a
2 business, a sustainable business model of moving
3 litter, transporting litter to southeast Kansas and
4 setting it up as a sustainable business.

5 Q Would you agree with me that one of the 02:21PM
6 factors for which Cargill was doing that was because
7 of the high levels of phosphorus in northwest
8 Arkansas?

9 MR. WALKER: Object to the form.

10 A Well, no, sir. We were doing that because 02:21PM
11 rules and regulations were changing, and at that
12 time there seemed to be some excess because of these
13 new changes, and Cargill saw it as a possible
14 business that we could get in and make money on.

15 Q And the excess that you referred to is excess 02:21PM
16 phosphorus; correct?

17 A No, sir. I said excess litter.

18 Q Excess litter, okay. So in looking at this
19 map that shows that there are high phosphorus
20 levels, that doesn't tell Cargill that the excess 02:22PM
21 litter creates high phosphorus?

22 MR. WALKER: Object to the form.

23 A Sir, I said that -- what I said was that rules
24 and regulations are changing and states are changing
25 all that, and because of those changes, nutrient 02:22PM

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1 management plans, there was some excess litter and
2 we were using that trying to make a new business out
3 of it.

4 Q Would you agree with me then, sir, that
5 Cargill, by looking at this map, clearly created a 02:22PM
6 map that says, and I quote, phosphorus soil test
7 levels high, and that shows the area of northwest
8 Arkansas; am I reading that map correctly?

9 MR. WALKER: Object to the form, lack of
10 foundation. 02:22PM

11 A Sir, Cargill didn't create this.

12 Q Who did?

13 A That's a great question. I don't know. It
14 looks like it was copied off of something. I don't
15 know where this map came from. 02:22PM

16 Q You were involved in the Precision Ag model,
17 which was the project this is referring to, is it
18 not?

19 A Yes, I was.

20 Q And in your prior testimony did you not tell 02:23PM
21 me that you relied in part on the Crop Nutrition
22 division of Cargill, Inc.?

23 A Yes, sir.

24 Q And did the Crop Nutrition division of
25 Cargill, Inc., prepare this map for an assessment of 02:23PM

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1 the Precision Ag model?

2 A I believe that they were the one putting this
3 together, yes.

4 Q And is Crop Nutrition a separate entity from
5 Cargill, sir? 02:23PM

6 MR. WALKER: Object to the form.

7 A I don't know how it's part of Cargill.

8 Q It is part of Cargill, isn't it?

9 A I believe so.

10 Q So when you say Cargill didn't create this 02:23PM
11 map, that's not a correct statement, is it?

12 MR. WALKER: Object to the form.

13 A No, sir. Create as in actually make the map,
14 fill it in and all that. What I'm saying is, I
15 don't know. He could have got this map. I don't 02:23PM
16 know where he got this map, but I don't ever
17 remember him doing the research and finding out all
18 this data. I was under the impression this came
19 from a government agency of somewhere that he just
20 copied it over. 02:24PM

21 Q So if it came from a government agency, then
22 it was a public record; correct?

23 A If it was a public -- yes, it would be a
24 public record.

25 Q Okay. Now, you said that there were excess 02:24PM

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1 litter. The litter is excess only because it cannot
2 be spread on the land in northwest Arkansas; is that
3 what you mean?

4 A Because of the changes in laws and how litter
5 was applied and -- yes. 02:24PM

6 Q Well, in northwest Arkansas there was no law
7 in existence in 2003 that related to the levels of
8 litter application, was there?

9 A No, sir.

10 MR. WALKER: Object to the form. 02:24PM

11 A But there was talk of that happening, and we
12 were -- like I say, we were trying to be early and
13 get in there and get this business started. So it
14 was -- we were kind of looking into the future a
15 little bit. 02:25PM

16 Q I misunderstood what you said. You were
17 trying to be early to what?

18 A Well, to set up the business, to set up this
19 business of taking litter into southeast Kansas.

20 Q How long did that business operate? Did it 02:25PM
21 start in 2002 and operate until about 2004; is that
22 your recollection?

23 A Yes, sir, roughly.

24 MR. GARREN: We need to take a break for
25 the tape. We'll come back. 02:25PM

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1 VIDEOGRAPHER: We're now off the Record.

2 The time is 2:25 p.m.

3 (Following a short recess at 2:25 p.m.,
4 proceedings continued on the Record at 2:38 p.m.)

5 VIDEOGRAPHER: We are back on the Record. 02:38PM

6 The time is 2:37 p.m.

7 Q Are you familiar with a company named Shady
8 Brook Farms?

9 A I'm -- when Cargill purchased Rocco, they had
10 a brand named Shady Brook. 02:38PM

11 Q Okay. Let me hand you a document and ask you
12 whether or not you know what that document is.
13 Exhibit No. 79, beginning at Bates stamp 138997, it
14 refers to a litter monitoring program and it
15 mentions Shady Brook Farms MicroTreat P cost. 02:38PM

16 MS. HILL: Where are you?

17 Q Third -- fourth page in, 139000. There's
18 another heading there. We may go through this
19 pretty quick. So look at 139003.

20 A 139 -- 02:39PM

21 Q 003.

22 A Okay.

23 Q This says Shady Brook Farms, a division of
24 Rocco Inc., which is what I think you seemed to have
25 recalled, but it has a date here of 1997 or '96, 02:39PM

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1 '97. Rocco was acquired in 2001. Do you know a
2 person, though, in Cargill's organization that's
3 named Christy Puffenbarger?

4 A Christy Puffenbarger was no longer with the
5 company, but she was with Cargill, Inc., when we 02:40PM
6 made the purchase of Rocco.

7 Q When did she leave Cargill, Inc.; do you know
8 roughly?

9 A '02, '03, around '03 maybe. I do not know the
10 exact date. 02:40PM

11 Q Was she ever involved with the Springdale
12 complex?

13 A No, sir.

14 Q Was she always involved or was she involved in
15 the Virginia complex area? 02:40PM

16 MR. WALKER: Object to the form.

17 A That is where she worked was the Virginia
18 complex.

19 Q Do you know what position or authority or
20 title she held? 02:40PM

21 MR. WALKER: Objection as beyond the scope
22 of the topics noticed for this deposition.

23 A No, sir.

24 MR. WALKER: Let me finish, please, Mr.

25 Alsup. Objection as beyond the scope of the topics 02:40PM

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1 noticed for this deposition.

2 Q Do you know whether or not Cargill, Inc. --
3 other than looking at this Exhibit 79, did Cargill,
4 Inc., ever do any other types of litter monitoring
5 programs than the one we see listed in this Exhibit 02:41PM
6 79?

7 MR. WALKER: Object to the form.

8 A Are you -- I do not know of any -- what's this
9 called -- MicroTreat P trials done at Cargill.

10 Q Do you know whether or not the results of this 02:41PM
11 program were shared with others in Cargill, Inc.'s
12 operations through Miss Puffenbarger?

13 MR. WALKER: Object to the form, beyond the
14 scope of the topics noticed.

15 MS. HILL: You can answer, Tim, if you 02:42PM
16 know.

17 A Oh. I do not know.

18 Q Are you familiar with any programs by Cargill,
19 Inc., besides this Exhibit 79, that would have dealt
20 with testing for coliform reduction in poultry 02:42PM
21 manure?

22 MR. WALKER: Object to the form.

23 A No, sir.

24 Q Does Cargill know whether pathogens in poultry
25 waste survive at the time that it's removed from the 02:42PM

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1 barn, not spread but removed from the barn?

2 MR. WALKER: Object to the form.

3 A First of all, Cargill doesn't know if
4 pathogens are in the litter. We haven't tested.

5 So, no, we would not know. 02:43PM

6 Q All right, but based on other than testing,
7 reading published literature, does Cargill have
8 knowledge whether poultry litter has pathogens in it
9 before it's removed from the barn?

10 MR. WALKER: Object to the form. 02:43PM

11 A I don't know what your definition of pathogens
12 is. As we stated earlier, the only trial that I
13 know that's been done was with some Salmonella that
14 affected the bird health, but other than that, no.

15 Q Okay. Other than the Salmonella test, are you 02:43PM
16 aware of other pathogens that exist in poultry
17 manure?

18 MR. WALKER: Object to the form.

19 A No, sir.

20 Q Do you know whether poultry manure contains 02:43PM
21 Cryptosporidium?

22 A No, sir.

23 Q Do you know whether poultry manure contains
24 fecal coliforms?

25 A No, sir. 02:44PM

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1 Q Let me ask it this way: Does as far as
2 Cargill believe -- does poultry manure contain fecal
3 coliforms?

4 A We have not tested. We don't know.

5 Q Other than testing for it, has Cargill learned 02:44PM
6 through some other source or published literature if
7 fecal coliforms exist in poultry waste?

8 A In running through my document search in
9 preparing for this test, I saw nothing in the
10 Cargill literature about -- studies about bacteria 02:44PM
11 or I'm sorry, fecal coliforms.

12 Q Does -- other than tests and your looking at
13 these documents in preparation for this testimony,
14 does Cargill know whether poultry waste contains
15 fecal coliforms? 02:45PM

16 MR. WALKER: Object to the form.

17 A Other than doing the test, no, and looking at
18 documents, no, and upon talking -- when I talked to
19 the employees, no. So, no.

20 Q Cargill in its clean-out procedures requires 02:45PM
21 the barns to be sanitized, do they not?

22 A They are given soap and some disinfectant,
23 yes.

24 Q All right, and what is the purpose for
25 disinfectant in the barns when you remove the 02:45PM

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1 poultry waste?

2 A Well, it would be to -- you can't ever
3 disinfect a house totally I don't think, but to --
4 if there is something that is affecting bird health
5 from a previous flock, we would be hoping that it 02:46PM
6 would knock those numbers back.

7 Q Are pathogens things that would affect bird
8 health?

9 A There are different microbial things that
10 affect bird health, yes. You could -- you could 02:46PM
11 call it a pathogen for a bird.

12 Q Let me hand you Exhibit 10 and ask you to look
13 at that document. This is a National Turkey
14 Federation environmental management guideline for
15 turkey production dated November 1999 starting at 02:47PM
16 Bates 139058. Have you had an opportunity to see
17 this document before?

18 MR. WALKER: Object as beyond the scope of
19 the topics notice. National Turkey Federation is
20 reserved for a different witness. Answer, if you 02:47PM
21 can.

22 Q Have you had an opportunity to see this
23 document in preparation for this deposition?

24 A I have not read this document.

25 Q Have you seen it before? 02:47PM

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1 A I have seen this document.

2 Q And do you know -- the date on this would show
3 that it predates the Cargill Turkey Production, LLC;
4 correct?

5 A Yes. 02:48PM

6 Q Who would in Cargill likely have in their
7 control or possession an environmental management
8 guideline for turkey production?

9 MR. WALKER: Object to the form.

10 Q Let me ask it this way: Who in Cargill, Inc., 02:48PM
11 would have the need for having this environmental
12 guideline for turkey production in their possession
13 since it was produced by Cargill to the State of
14 Oklahoma?

15 MR. WALKER: Object to the form, beyond the 02:48PM
16 scope of the topics noticed.

17 A Sir, I do not know -- I do not know what --
18 whose file this came out of.

19 Q I asked you who would have a need for it,
20 though. 02:48PM

21 MR. WALKER: Same objection.

22 A Tim Maupin.

23 Q Do you know whether or not this environmental
24 management guideline was provided to the growers for
25 Cargill, Inc.? 02:49PM

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1 A No, sir. I never -- not at the Springdale
2 complex.

3 Q Do you know whether it was provided to any
4 other contract growers for Cargill, Inc., besides
5 Springdale? 02:49PM

6 MR. WALKER: Object to the form, beyond the
7 scope of the topics noticed.

8 A I don't know.

9 Q You don't know. Has Cargill at any time
10 requested or required its contract growers to apply 02:50PM
11 their turkey litter at an agronomic rate?

12 A We -- we have given them the BMPs from the
13 states but -- and asked them to follow that and
14 their nutrient management plan, but specifically,
15 no. 02:50PM

16 Q Specifically, no, you have not asked them or
17 requested them to apply poultry litter at agronomic
18 rates; is that what you mean?

19 A Yes.

20 MR. WALKER: Object to the form. 02:50PM

21 Q Thank you. At the six breeder farms that
22 Cargill, Inc., owns and operates, what does -- what
23 has Cargill, Inc., done with the poultry waste
24 generated at that facility in the past?

25 MR. WALKER: Object to the form. 02:51PM

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1 A The litter that has been produced off the
2 breeder farms has been given to -- we're talking
3 pre-'04, right, for Inc.?

4 Q Yes, sir.

5 A There was a contractor that the litter was 02:51PM
6 basically given to, and then he took it and sold it.
7 I mean we gave it to him, basically buying the
8 service, but he would take that litter and then sell
9 it.

10 Q Sell it or spread it? 02:52PM

11 A He could have spread it, too. I don't know.

12 Q Isn't it a fact, though, sir, at some time and
13 for a period of time the poultry waste generated at
14 the breeder farms were applied on lands owned by
15 Cargill, Inc.? 02:52PM

16 MR. WALKER: Object to the form.

17 A No, sir, there's been no documentation to that
18 fact.

19 Q Well, you're aware, are you not, that Cargill,
20 Inc., obtained a nutrient management plan for all 02:52PM
21 six breeder farms?

22 A Yes, sir.

23 Q Okay, and if it were not going to spread the
24 poultry waste on its lands, what was the purpose for
25 having a nutrient management plan? 02:52PM

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1 A Sir, I didn't say it didn't have it. I said
2 there's been no documentation to show that it
3 happened. We did get a nutrient management plan
4 back in '98. It was the same time that we were
5 having meetings, that the states were having 02:53PM
6 meetings with the contract growers, and we were
7 asking, you know, it's a good thing to get a
8 nutrient management plan, and our breeder operations
9 did.

10 Q Is it Cargill's position today through your 02:53PM
11 statement under oath that Cargill has not land
12 applied poultry waste generated at its breeder farms
13 on land owned by Cargill, Inc.?

14 MR. WALKER: Object to the form.

15 A I said we don't know. 02:53PM

16 Q You don't know. Cargill doesn't know; is that
17 what you're saying?

18 A No, sir.

19 Q Let's go back. Let me do that again so we're
20 clear on your response and my question. Is it 02:54PM
21 Cargill's position today through your statement
22 under oath that Cargill has not land applied poultry
23 waste generated at its breeder farms on land owned
24 by Cargill, Inc.; yes?

25 A And I said that we have -- there's no 02:54PM

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1 documentation to show that that happened.

2 Q Other than documentation, is it Cargill's
3 position today through your statement under oath
4 that it has not land applied poultry waste generated
5 at its breeder farms on land owned by Cargill, Inc.? 02:54PM

6 A We do not know. It could have been -- well, I
7 don't know.

8 Q Go ahead and finish your statement. It could
9 have been what?

10 A The litter was hauled off by our contractor 02:54PM
11 and he was selling it. I do not -- they're selling
12 it to other people, and he could have been spreading
13 it or just selling it. I don't know. There's just
14 no documentation to it.

15 Q Let me hand you what has been marked as 02:55PM
16 Exhibit 38, but if you'll hold that page at Page 11,
17 this is a -- this is Cargill, Inc.'s response and
18 objection to plaintiff's September 13, 2007 set of
19 interrogatories and request for production to all
20 defendants. At Page 11 there is a response to an 02:57PM

21 Interrogatory No. 6. The interrogatory says, for
22 poultry waste generated at your poultry
23 growing/feeding operations and/or poultry
24 growing/feeding operations under contract with you
25 in the Illinois River since 1980 that has not been 02:58PM

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1 transported out of the Illinois River watershed,
2 please state, broken down by year, how the poultry
3 waste was disposed, that is, its land application in
4 the watershed, burning as fuel, et cetera, and the
5 amount disposed of. The response goes to say by 02:58PM
6 Cargill, to the knowledge of Cargill, Inc., any
7 litter generated by operations formerly owned by
8 Cargill, Inc., in the IRW would have been either
9 land applied in a manner consistent with state
10 approved nutrient management plans produced at 02:58PM
11 documents number so and so or sold as an in-kind
12 transfer to contractors who cleaned out Cargill,
13 Inc.'s poultry houses. Now, that says it was land
14 applied. It doesn't say it was land applied on its
15 own land. Is that your distinction you are making 02:58PM
16 today for Cargill, Inc.?

17 MR. WALKER: Object to the form.

18 A Sir, it says either. There was no records to
19 what this contractor did with the litter.

20 Q Did Cargill itself clean its own houses out at 02:59PM
21 any time and not rely on a third-party contractor?

22 A That started in 2005 -- no. I'm sorry. We're
23 talking Cargill, Inc. No, sir, Cargill, Inc., has
24 not.

25 Q Okay. So the entire time it's operated its 02:59PM

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1 breeder farms in the IRW, Cargill, Inc., has not
2 cleaned out its breeder farm houses from the poultry
3 waste generated inside?

4 MR. WALKER: Object to the form.

5 A There has not been a Cargill employee that has 02:59PM
6 done that.

7 Q Okay. Has Cargill Turkey, LLC, caused poultry
8 waste generated at the breeder farms to be land
9 applied on land owned by Cargill, Inc.?

10 MR. WALKER: Object to the form. 03:00PM

11 A Can you ask that one more time?

12 Q Yeah, and has Cargill Turkey, LLC, caused
13 poultry waste generated at the breeder farms to be
14 land applied on land owned by Cargill, Inc., or
15 Cargill, LLC? 03:00PM

16 A There has been some land application after
17 2004.

18 Q There's been some land application after 2004?

19 A Up to 2005.

20 Q Where? 03:00PM

21 A There was -- I have seen some -- there was
22 some land litter applied assuming by the contractor
23 on Cargill lands or CTP, LLC, lands between '04 and
24 '05.

25 Q When you say those lands, are you talking 03:01PM

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1 about lands that are associated with what are known
2 as the breeding farms?

3 A Yes, sir.

4 Q Let me hand you what's been marked as Exhibit

5 22. I believe you've seen these before personally. 03:01PM

6 Mr. Alsup, in your individual deposition that you

7 and I conducted in June of '08 a question was

8 propounded to you at Page 87 of the temporary

9 transcript, does it or does -- is it my

10 understanding, though, that Cargill has land applied 03:02PM

11 poultry litter from its operations on the land that

12 surrounds those barns, and your answer was, Cargill

13 has applied land or has applied litter to Cargill

14 owned land, yes. Do you remember that question and

15 that answer? 03:03PM

16 MR. WALKER: Objection, Mr. Garren. Do you

17 have a copy of his deposition that I can look at?

18 MR. GARREN: I don't know at this time

19 because it's still not been signed, and I'm trying

20 to clarify whether his recollection was different 03:03PM

21 today than it was then.

22 A Sir, I have not seen my deposition.

23 Q Okay, and you don't remember making that

24 statement, though, do you?

25 A That was a long day. No, sir. 03:03PM

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1 Q Okay. Looking at Exhibit 22 then, sir, that's
2 a nutrient management plan for the six breeder
3 farms. I asked you to look at Page 123748. This is
4 part of the nutrient management plan dealing with
5 Farm 2. When these plans were prepared, is it true 03:04PM
6 that an employee or agent or representative of
7 Cargill would have to have communicated to the plan
8 writer about facts or information relating to the
9 operation of the farm to prepare this plan?

10 A Such as what? I mean how many birds were 03:04PM
11 there?

12 Q The acreage that's there, the flocks that are
13 grown.

14 A A lot of that would -- the acreage and stuff,
15 all of that would have come from maps that the 03:04PM
16 planner would have had. The flocks that was grown
17 would have had to have come from the breeder
18 manager.

19 Q Okay. Looking at this particular page,
20 123748, at the very bottom, this says that soil 03:05PM
21 tests were performed on all fields in March of 1988
22 and indicate that Field 1-1 had phosphorus levels of
23 797 pounds per acre. Let me ask you, sir, before
24 that March 1998 test was performed, did Cargill
25 allow any other people or entities to land apply 03:05PM

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1 poultry waste on its Breeder Farm No. 2?

2 MR. WALKER: Object to the form.

3 A Between -- I think Farm 2 was built in '87 to
4 -- what date did you say?

5 Q March of '98. 03:05PM

6 A There wouldn't have been -- from the time the
7 farm was built to March of '98, there wouldn't have
8 been any other litter applications made from I think
9 you said other --

10 Q Other entities, any persons. 03:06PM

11 A Yeah.

12 Q And you're saying that Farm No. 2 was built in
13 '87?

14 A Yes, sir, late '86, early '87.

15 Q What was the use of the land at that farm 03:06PM
16 prior to that?

17 A I believe it was pasture.

18 Q And as I understand your statements today,
19 Cargill claims that from 1987 until March of 1998
20 Cargill has not caused poultry waste to be applied 03:06PM
21 or allowed poultry waste to be applied on the Farm
22 2, specifically Field 1-1?

23 MR. WALKER: Object to the form, contrary
24 to his testimony.

25 A Could you say that one more time? 03:06PM

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1 Q Yeah. So I'm clear, from 1987 or thereabouts
2 when Farm 2 was built, is that when Cargill first
3 started using Farm 2 as a breeder facility?

4 A It was -- the land was purchased and the farm
5 was built. 03:07PM

6 Q All right. So from that time until March of
7 '98 when this soil test was performed, did Cargill
8 allow or was there applied any poultry litter to
9 those -- to that property?

10 A From other entities, no. 03:07PM

11 Q Or from Cargill?

12 A Well, like I say, we -- there has not been any
13 records kept for that period of time. They were
14 using a contractor. Cargill could not find out
15 where the litter that was removed from Breeder Farm
16 2 was applied. There's just no records. 03:07PM

17 Q And so in all your effort to get prepared for
18 this deposition, you've not been able to determine
19 where any litter from any breeder farm was actually
20 land applied? 03:08PM

21 A There were no -- in the '90's there were no
22 records like this.

23 Q Again, let me -- in your effort to get
24 prepared for this deposition, you've not been able
25 to determine where any poultry litter from the 03:08PM

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1 breeder farms owned by Cargill was land applied, yes
2 or no?

3 MR. WALKER: Object to the form.

4 A No -- I mean I have not been able to determine
5 that. 03:08PM

6 Q Does Cargill, Inc., have any evidence to
7 suggest to the contrary?

8 A That there never was any litter applied?

9 Q That litter was not applied between the time
10 it was built until this soil test in '98. 03:09PM

11 A No, sir, we do not have documentation to show
12 that it did not happen.

13 Q Do you have any other information besides
14 documentation to reflect whether it didn't happen?

15 A No, sir. 03:09PM

16 Q What explanation does Cargill have for a March
17 1998 soil test reflecting 797 pounds per acre of
18 phosphorus?

19 MR. WALKER: Object to the form.

20 Q Let me ask it this way: Does Cargill believe 03:09PM
21 that a soil test of 797 pounds per acre of
22 phosphorus is high?

23 MR. WALKER: Object to the form.

24 A If you're using a threshold, it could be high.
25 If you're using a PI and it goes through the 03:10PM

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1 calculations, yes, sir, it's possible it could be
2 high.

3 Q Do you know what the agronomic need for
4 pastureland on this Farm No. 2 is for phosphorus?

5 MR. WALKER: Object to the form. 03:10PM

6 A No, sir.

7 Q Does anybody in Cargill, Inc., know what the
8 agronomic need for the pastureland at Farm 2 to be
9 for phosphorus?

10 A I know of nobody that knows the formula or the 03:10PM
11 table that is used for that. No, sir, nobody has
12 that.

13 Q Does Cargill, Inc., know what the agronomic
14 need is for Bermuda in general as it pertains to
15 phosphorus? 03:10PM

16 A No, sir. Nobody has that -- it's a table.

17 Q I'm not asking a table. They can have that
18 knowledge without a table. Does anybody in Cargill,
19 Inc., have the knowledge of the agronomic need
20 generally of phosphorus for Bermuda grass? 03:11PM

21 MR. WALKER: Object to the form.

22 A Not to my knowledge.

23 Q And does anybody in Cargill, Inc., have the
24 knowledge of what the agronomic need of phosphorus
25 for fescue grass is? 03:11PM

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1 MR. WALKER: Object to the form.

2 A Not to my knowledge.

3 Q Does anybody in Cargill Turkey, LLC, have the
4 knowledge of what the agronomic need for Bermuda or
5 fescue is for phosphorus?

03:11PM

6 MR. WALKER: Object to the form.

7 A Not to my knowledge.

8 Q Looking again at this page, 123748, at the
9 last sentence of the first paragraph, I'll read the
10 sentence. It says, the litter is spread either on
11 company land or spread onto neighbors' pastureland.
12 Is that a true statement, the last sentence in the
13 first paragraph?

03:12PM

14 A Yes, sir, it's possible. I mean the plan
15 writer that wrote it -- that is possible, yes, sir.

03:12PM

16 Q The second paragraph starts out, the following
17 best management practices will be needed to obtain
18 the maximum benefits. The next to last item on that
19 list is record keeping. Do you see that?

20 A Yes, sir.

03:13PM

21 Q And were records kept with regard to the waste
22 disposed of from this operation?

23 MR. WALKER: Object to the form.

24 A No, sir.

25 Q And did you make an inquiry or investigation

03:13PM

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1 to satisfy yourself that there are no such records?

2 A I did look and tried to find out, and I didn't
3 find any.

4 Q Looking at the next page, 123749, in the next
5 to the last set of columns that are set forth there 03:13PM
6 under recommended yearly application rates, do you
7 see that provision?

8 A Yes, sir.

9 Q And it says, for the recommended yearly
10 application rates for fescue pastureland, phosphorus 03:14PM
11 is 35 pound per acre; do you see that?

12 A Yes, sir.

13 Q Does Cargill know whether or not it exceeded
14 those recommended rates in applying any poultry
15 litter on Farm 2? 03:14PM

16 A We do not have those records.

17 Q Do you know whether or not under Bermuda
18 pastureland, Cargill, Inc., has any records or
19 knowledge to know whether the phosphorus
20 recommendation of 35 pounds per acre was in fact 03:14PM
21 exceeded?

22 A No, sir, we do not.

23 Q Are you aware, sir, in your experience as a
24 long-time Cargill employee of the fertilizer
25 division for Cargill, Inc.; are you aware that there 03:15PM

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1 is one?

2 A I'm sorry?

3 Q I'll start over. You've been involved as an
4 employee of Cargill, Inc., for how many years now?

5 A 22 years. 03:15PM

6 Q And in that time and in that experience, are
7 you aware that there was at a time a fertilizer
8 division for Cargill, Inc.?

9 MR. WALKER: Object to the form, beyond the
10 scope of the topics noticed. Is this a personal 03:15PM
11 knowledge deposition now?

12 Q Are you aware of it, sir?

13 A Cargill has many divisions, and did I
14 specifically know that there was a fertilizer
15 division, yes. 03:15PM

16 Q Is the fertilizer division that we've just
17 discussed, is it one and the same as what has been
18 previously referred to as the Crop Nutrition
19 division, or are they separate or different?

20 MR. WALKER: Objection. It's beyond the 03:16PM
21 scope of the topics noticed for this witness.

22 Q Do you know?

23 A That is the only name that I've known them.

24 Q Which name, Crop Nutrition or fertilizer?

25 A Crop Nutrition. 03:16PM

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1 Q Okay. You believe that's, to your knowledge,
2 the same as the fertilizer business unit?

3 MR. WALKER: Same objection.

4 A Yes, sir. I don't know anything about that
5 division or their names or anything else, but I 03:16PM
6 would have known it as a Crop Nutrition.

7 Q Do you know whether or not Cargill, Inc., has
8 at any time in its ownership and operation of the
9 breeder farms made any inquiry as to what it should
10 do with poultry litter and at the rate it should be 03:16PM
11 applied?

12 A No, sir.

13 Q Again, I've asked a bad question. I asked you
14 if you know. Does Cargill -- has Cargill provided
15 through one of its other divisions to its turkey 03:17PM
16 growing division information about how much, where
17 and when should poultry litter be applied to land?

18 MR. WALKER: Objection, beyond the scope of
19 the topics noticed for this witness.

20 A Not to my knowledge. 03:17PM

21 Q Okay. Do you know whether or not a division
22 in Cargill, other than the poultry area, has
23 undergone or undertaken any tests to determine where
24 poultry waste has been spread on the land in the
25 IRW? 03:18PM

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1 MR. WALKER: Object to the form.

2 A I don't know.

3 Q Has Cargill, Inc., in some division other than
4 the turkey division conducted tests to determine how
5 much poultry waste had been spread on lands in the 03:19PM
6 IRW?

7 MR. WALKER: Object to the form, beyond the
8 scope of this witness' designated testimony.

9 A I don't know.

10 MR. GARREN: Item 29, Counsel, says the 03:19PM
11 amount of and specific locations, past and present,
12 where poultry waste generated by each of the poultry
13 growing operations has been spread on land within
14 the IRW.

15 MR. WALKER: I think you talked about 03:19PM
16 divisions outside of Springdale was my understanding
17 of your question. Maybe I misunderstood it.

18 MR. GARREN: This inquiry is not limited to
19 any particular complex.

20 MR. WALKER: Which one? 03:19PM

21 MR. GARREN: No. 29, and I'm asking him
22 whether or not any tests were performed in order
23 that one could determine whether poultry waste was
24 generated had been land applied.

25 MR. WALKER: You said tests by some other 03:19PM

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1 division of Cargill I believe.

2 MR. GARREN: That's fine. Cargill, Inc.

3 MR. WALKER: Did you answer?

4 A I don't know. Not to my knowledge. No, I
5 don't know. 03:20PM

6 Q Contained within the nutrient management plans
7 at Page 123815, there is a cooperative extension
8 service fact sheet that says, utilizing dry poultry
9 litter, an overview. Do you see that document?

10 A (Witness shakes head up and down). 03:21PM

11 Q Yes, sir?

12 A Yes, sir, I see it.

13 Q You've seen this document before, have you
14 not?

15 A It is possible, yes, sir. 03:21PM

16 Q You agree this document was produced by
17 Cargill, and it appears to be mixed in between
18 nutrient management plans of Cargill; correct?

19 A Yes, sir.

20 Q The next document is -- actually the one I 03:21PM
21 want to go to is at Page 123817. That's a nutrient
22 management guideline prepared by the U.S. Department
23 of Agriculture, Soil Conservation Service. This one
24 is dated December 21, 1992. Is this an example,
25 sir, of the kind of document you might have given to 03:22PM

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1 Cargill growers at or about this time frame?

2 A In '92?

3 Q I think you testified earlier there was an
4 early '90's, '91 time frame that certain -- we might
5 have referred to them as environmental management
6 guidelines were handed out. I'm trying to find out,
7 is this an example of that document or would it be
8 something different I should look for?

03:22PM

9 A Did it have best management practice
10 guidelines, yes. Was it this document, I don't
11 know.

03:22PM

12 Q Is this similar to the document that would
13 have been handed out by Cargill to its growers in
14 the early '90's?

15 MR. WALKER: Object to the form.

03:23PM

16 A I believe the one I saw had -- I don't think
17 this is the same one I saw, no, sir.

18 Q Okay. Let me hand you what has been marked as
19 Exhibit 64. Are you familiar, sir, with the
20 environmental framework and implementation strategy
21 for poultry operations as a voluntary program
22 developed and adopted by the poultry industry at a
23 meeting December 8th and 9th of 1998?

03:24PM

24 MR. WALKER: Object to the form.

25 A No, sir.

03:24PM

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1 Q Is Cargill familiar with the poultry industry
2 Environmental Dialogue that was conducted in the
3 1998 time frame?

4 MR. WALKER: Object to the form, beyond the
5 scope of the topics noticed. 03:24PM

6 A I don't know if anybody from Cargill would
7 have known about that.

8 Q In fact, a representative of Cargill testified
9 that he attended most, if not all, of these
10 meetings. Did you talk to Mr. Maupin? 03:25PM

11 A Yes, I have talked to Mr. Maupin.

12 Q Did Mr. Maupin tell you that in 1998 he
13 participated in this Poultry Dialogue?

14 MR. WALKER: Object to the form, beyond the
15 scope of the topics noticed. I believe you are 03:25PM
16 asking questions about Topic No. 11, industry
17 associations. Answer, if you can.

18 MR. GARREN: Actually, I'm not.

19 MR. WALKER: That's what it appears to be
20 to me. 03:25PM

21 MR. GARREN: Well, make your objection and
22 I'll -- we'll move on.

23 A Well, sir, I'm not disputing if Tim Maupin
24 said he attended it, okay?

25 Q Okay, but as a Cargill, Inc., representative 03:25PM

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1 and a designee today to testify on behalf of
2 Cargill, Inc., did you ask Mr. Maupin about this
3 Dialogue?

4 A I did not specifically ask him about this
5 Dialogue. 03:25PM

6 Q Did he share the information with you that he
7 attended it and what it was he learned from it?

8 A We did not talk about the Poultry Industry
9 Environmental Dialogue.

10 Q This talks about litter manure management plan 03:26PM
11 on Page 3 of the document. Would that reflect
12 practices and policies and recommendations for the
13 management, handling and storage of poultry litter?

14 MR. WALKER: Can you read that question,
15 please? 03:26PM

16 (Whereupon, the court reporter read
17 back the previous question.)

18 MR. WALKER: Object to the form.

19 A The way I read this Page 3, it's talking about
20 getting growers to get nutrient management plans. I 03:27PM
21 don't know about the dates. I don't know what the
22 dates mean or where they're talking about this but,
23 yes, sir, in the late '90's and -- we were
24 encouraging growers, contract growers to get
25 nutrient management plans. 03:28PM

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1 Q What would be the reason for Cargill, Inc.,
2 encouraging its growers to get nutrient management
3 plans?

4 A Well, it's a good business practice. It helps
5 them use their assets in an economical and best way 03:28PM
6 to utilize it, and to my knowledge, you know,
7 nutrient management plans are written in a way to
8 protect water quality, so --

9 Q And so when you use the term assets, were you
10 referring to poultry litter? 03:29PM

11 A Yes, sir.

12 Q Okay. Has Cargill, Inc., added the treatment
13 to waste in its growing operations the chemical
14 alum?

15 MR. WALKER: Object to the form. 03:30PM

16 A Cargill, Inc.? I believe there was a time
17 where alum was utilized on a limited basis on some
18 farms.

19 Q What was the purpose of introducing alum into
20 the poultry barns? 03:30PM

21 A Bird health.

22 Q What part of the bird health; what was it that
23 alum did that either helped or hindered bird health?

24 A It acidified the litter and kind of dried the
25 litter out a little bit. 03:30PM

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1 Q And that's -- did -- I'm sorry.

2 A I'm sorry.

3 Q Go ahead.

4 A Thus, drying it out a little bit reduced some
5 ammonia that was -- that could be produced in the
6 house.

03:31PM

7 Q All right, and did -- prior to undertaking the
8 introduction of alum to the poultry barns in this
9 time frame, did Cargill study what the effects would
10 be when it's -- that particular waste is land
11 applied?

03:31PM

12 MR. WALKER: Object to the form.

13 A No, sir. Cargill has not studied the effects
14 of alum on litter that's been land applied.

15 Q Did Cargill in advance of introducing alum
16 into the poultry barns review any published
17 literature with respect to the effect of alum on the
18 poultry waste when it was land applied?

03:31PM

19 MR. WALKER: Object to the form.

20 A I have seen some literature that -- not
21 necessarily of what it did after it was land
22 applied. I think there was a professor at the
23 university that was running some studies on it that
24 maybe it may have decreased water-soluble phosphate,
25 but I mean I don't remember the study. I vaguely

03:31PM

03:32PM

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1 remember seeing it or hearing about it.

2 Q What do you mean by it would have decreased
3 water-soluble phosphate?

4 A It bound -- his tests or his experiments I
5 think was to see if it would bind phosphate. 03:32PM

6 Q And what were the results or findings that
7 Cargill learned from that?

8 A Sir, I don't remember seeing the final study.
9 He -- well, I don't remember seeing the final study.

10 Q Let me hand you Exhibit 66. Is Cargill 03:33PM

11 familiar with this particular document? It's Bates
12 numbered 142127, and it's entitled guide manual on
13 NPDES regulations for concentrated animal feeding
14 operations final. At the top it appears to have a
15 fax header dated 1998 with the Missouri Poultry
16 Federation phone number. The document is dated
17 December of 1995. Does Cargill know why this is in
18 their records?

19 MR. WALKER: I'm sorry, object to the form.
20 There's no Bates number on this that indicates it is 03:34PM
21 in Cargill's records.

22 MR. GARREN: That's because the sticker is
23 sitting over the top of it.

24 MR. WALKER: Well, look at the next page.
25 There's nothing. They're not numbered. 03:34PM

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1 MR. GARREN: Interesting.

2 MS. HILL: Does your copy have a Bates
3 range?

4 MR. GARREN: Yes. The Bates range is
5 142127 through 142133. You may look at that real
6 quick.

03:34PM

7 Q Are yours, too, lacking Bates number?

8 A Is that the number down here?

9 Q Let me look at it real quick. Yeah, it got
10 cut off.

03:35PM

11 MR. GARREN: Okay. I'm happy to insert
12 this one instead if we want it for the Record so
13 when there are copies made, it will have the Bates
14 numbered on it. The highlighting won't show up.

15 MR. WALKER: I think one with the Bates
16 numbers would be a good idea.

03:35PM

17 MR. GARREN: Okay.

18 Q Looking at Page 142128 --

19 MR. WALKER: Which page of the document?

20 A Could you tell me by this number?

03:35PM

21 Q Yeah. The top of the page would be Fax No. 3.
22 I'm sorry. That would be the second page, second
23 page in the document. It says best management
24 practices for concentrated animal feeding
25 operations, August 1994. Can you tell me why and

03:36PM

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1 who would have this document in Cargill's documents?

2 MR. WALKER: Object to the form.

3 A Sir, it looks like it's a Missouri document.

4 No, sir. We -- to my knowledge there was no CAFOs

5 for our contract growers in the '90's. So I do not 03:36PM

6 know why we would have this document.

7 Q What does Cargill know to mean by the term

8 CAFO as it would apply to poultry operations?

9 A Well, I don't know the entire -- how they do

10 it, but EPA on the large -- larger farms, whether 03:36PM

11 it's hogs or cattle or laying hens or -- they do an

12 animal unit calculation, and if you meet a

13 threshold, like a wet litter -- well, a liquid

14 manure setup-type deal, you would consider it a

15 CAFO. 03:37PM

16 Q Does this CAFO and NPDES control in any way

17 the operations of Cargill, Inc., in the IRW?

18 A No, sir.

19 Q Cargill, Inc., has no liquid operations in the

20 IRW; correct? 03:37PM

21 A No, sir.

22 Q When I say liquid operation, I mean liquid

23 waste operations. That's a correct statement;

24 there's none in there?

25 A Yes, sir, that is a correct statement. 03:37PM

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1 MR. GARREN: Let's break for the tape.

2 Then we'll come time.

3 VIDEOGRAPHER: We're now off the Record.

4 The time is 3:37 p.m.

5 (Following a short recess at 3:38 p.m., 03:38PM

6 proceedings continued on the Record at 3:53 p.m.)

7 VIDEOGRAPHER: We are back on the Record.

8 The time is 3:54 p.m.

9 Q Mr. Alsup, I'll hand you what's been marked as
10 Exhibit No. 20 and represent to you these are the 03:55PM

11 copies of the requests to admit made to Cargill,
12 Inc., and Cargill, Inc.'s response to those requests
13 for admissions on or about April 20, 2007. Have you
14 looked at these documents before?

15 A Yes, sir. 03:56PM

16 Q On Page 2 of this document, the very last
17 paragraph at the top, it says, with respect to CTP's
18 own poultry growing operations after October of
19 2005, CTP states at various times poultry
20 material -- 03:57PM

21 A Sir, I'm sorry. I got two Page 2s.

22 Q In the responses. I'm sorry.

23 A Is the responses after the --

24 Q Yes, after the pink page. You can read those
25 independently if you need to see them. I'm trying 03:57PM

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1 to confirm a statement of admission in the last
2 paragraph. It says, with respect to CTP's own
3 poultry growing operations after October of 2005,
4 last paragraph, CTP states that at various times
5 poultry material was applied as fertilizer on CTP's
6 operation sites in the Illinois River watershed.

03:57PM

7 A I'm sorry?

8 Q Let me look; let me see. We might have
9 another issue here with documents.

10 A My last paragraph on Page 2 didn't have CTP on
11 it.

03:58PM

12 Q Okay. I apologize. I'm reading from LLC and
13 you have the Inc. in front of you. Just a second
14 here. That doesn't have a second set. Okay. We're
15 going to skip that and go to the next one. That one
16 is not correctly put together. We'll move on to a
17 different subject. I apologize. We have another
18 problem with an exhibit for some reason.

03:58PM

19 Did Cargill know prior to answering these
20 requests for admissions in '07 whether poultry
21 manure contains E. coli?

03:59PM

22 A No, sir, we have not tested for that.

23 Q Okay, but does Cargill know whether or not
24 poultry manure contains E. coli prior to 2007?

25 A No, sir.

03:59PM

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1 Q Did Cargill know prior to 2007 that poultry
2 manure contains Enterococci?

3 MR. HIXON: Object to form.

4 A No, sir.

5 Q Did -- I'm trying to figure out the best way 04:00PM
6 to do this to make the Record good. Did Cargill
7 Turkey Production prior to May 2007 know that
8 poultry manure contains Enterococci?

9 MR. WALKER: Object to the form.

10 A No, sir. 04:00PM

11 Q Did Cargill Turkey Production, LLC, prior to
12 2007 know that poultry manure contains E. coli?

13 MR. WALKER: Object to the form.

14 A No, sir.

15 Q Did Cargill, Inc., prior to May of 2007 know 04:00PM
16 that poultry manure contains Campylobacter?

17 MR. WALKER: Object to the form.

18 A No, sir.

19 Q Did Cargill Turkey Production, LLC, know prior
20 to May 27 (sic) whether poultry manure contains 04:00PM
21 Campylobacter?

22 A No, sir.

23 Q When you are saying no, sir, you mean it did
24 not know?

25 A It did not know. 04:00PM

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1 Q Okay, and did Cargill know that prior to 2007
2 that poultry litter contains Salmonella?

3 MR. WALKER: Object to the form.

4 A Was this Cargill or --

5 Q Cargill, Inc., to begin with prior to 2007. 04:01PM

6 A There was some tests done earlier for that. I
7 don't remember the tests but for the -- for bird
8 health issues, but we did test for it.

9 Q My question, though, did Cargill, Inc., know
10 prior to 2007 that poultry manure can contain 04:01PM
11 Salmonella?

12 A If the birds had it, yes, it was possible.

13 Q It was possible that it was in the waste?

14 A Yeah, it was possible.

15 Q So Cargill knows or doesn't know that it's in 04:01PM
16 the waste of poultry?

17 MR. WALKER: Object to the form.

18 A Sir, it has to be -- the testing that was done
19 was if the baby turkeys had it in them and brought
20 it, and that was just an easy way of checking 04:02PM
21 because you can't check a thousand baby turkeys. So
22 that's why they were testing the litter for it, to
23 see if it was in the birds.

24 Q Independent of that testing that you're
25 referring to did Cargill, Inc., know that Salmonella 04:02PM

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1 can be -- is contained within poultry manure?

2 A No, sir.

3 Q Did Cargill Turkey Production, LLC, know prior
4 to May of 2000 if poultry manure contained
5 Staphylococcus? 04:02PM

6 A No.

7 Q Did Cargill, Inc., know prior to May 27 (sic)
8 if poultry manure contained Staphylococcus?

9 A No, sir.

10 Q Let me hand you Exhibit 16. This is an E-mail 04:02PM
11 message dated December 12, 2002 from R. J. Finazzo,
12 F-I-N-A-Z-Z-O, to a Julie Anderson and a Brenda Roe.
13 Do you know those individuals?

14 A Yes, sir.

15 Q And the subject or the first line of this 04:03PM
16 says, Julie, this Tim Alsup requested the testing to
17 be done at all location to see something about the
18 waste impact about the environment. Should it be
19 his EXP dot or each LOC dot, question mark. Do you
20 see that sentence? 04:03PM

21 A Uh-huh.

22 Q Did I read that correctly?

23 A Uh-huh.

24 Q And can you tell me what was the testing that
25 was being done with regard to waste impact on the 04:03PM

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1 environment that this refers to?

2 A It wasn't a waste impact test. Let me finish
3 reading this E-mail. I think I know what it was.
4 This was some testing that I was doing I believe for
5 Tim Maupin, and it wasn't -- it was just a straight
6 litter test is all it was, and I mean there wasn't
7 anything unusual about it. It was just a straight
8 litter test and we were doing it at each location.

04:04PM

9 Q Straight litter test means what to you?

10 A Checking for N, P205, K20, moisture, electric
11 conductivity, calcium and the micronutrients that I
12 can't remember what's in there. Is there anything
13 else? That's all I can remember right now.

04:05PM

14 Q All right. If we looked at Exhibit 22 real
15 quick, maybe we can look at one of those tests
16 contained in there that may be legible enough. I
17 don't know if they are or not. I'm thinking there's
18 one in there that might be legible. Look near the
19 back, 123843. Does that look what -- to be a fairly
20 standard straightforward form of a poultry manure
21 test or soil test?

04:05PM

04:06PM

22 A No, sir, that's not a litter test. A litter
23 test looks entirely different.

24 Q Right. I was trying to see if we had one in
25 there. Apparently there isn't. We'll come back. I

04:06PM

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1 think I have one somewhere else but we'll come to
2 it. When you said locations, why was this testing
3 being conducted in 2002 and tell me where the
4 locations are?

5 MR. WALKER: Object to the form.

04:06PM

6 A The locations I believe were doing litter
7 testing in California, Missouri, Waco, Texas, and
8 Virginia, Harrisonburg, Virginia I think, yeah,
9 Harrisonburg, Virginia, yeah, and Springdale,
10 Arkansas.

04:06PM

11 Q So those four areas were having litter
12 analyses performed?

13 A Uh-huh.

14 Q Is that correct?

15 A Yes, sir.

04:07PM

16 Q And what was the reason that that was being
17 done?

18 A It had never been -- it's relating back to
19 this Precision Ag thing, and we didn't know how
20 litter in the Springdale area kind of compared to
21 our other locations. So it was just a fact-finding
22 deal to see, well, is there differences between the
23 four locations.

04:07PM

24 Q Did you find any differences generally?

25 A No, sir. Statistically, no. It was --

04:07PM

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1 Q Minor?

2 A Yes, sir, yes, sir.

3 Q Minor variations?

4 A It could have been a testing. I mean, no.

5 There was minor variations. 04:07PM

6 Q Okay, and was this actual litter test, poultry
7 or poultry mature tests that were being conducted?

8 A This was litter; this was --

9 Q So it included the bedding materials and other
10 waste materials that might have been in it? 04:08PM

11 A Yes, sir.

12 Q All right. Let me hand you what's been marked
13 as Exhibit 24. I'm going to go through this fairly
14 quickly because I believe we talked about this in
15 your individual. Is this -- this particular Exhibit 04:08PM

16 24 excerpts from the poultry waste quality -- I'm
17 sorry, the poultry waste management water quality
18 handbook -- poultry water quality handbook created
19 by the Poultry Consortium. This came from your
20 files, did it not? 04:08PM

21 A Yes, sir. It's possible it could have came
22 from --

23 Q I'll represent that the load files given to me
24 from Cargill said that it did, and I'm just trying
25 to confirm. 04:09PM

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1 A Okay.

2 Q All right, and since it was in your files, did
3 you have an opportunity to see the entire version,
4 1994 version that this is excerpted from?

5 A No, sir. I never have read the entire 04:09PM
6 version.

7 Q Well, have you seen the entire version that
8 these came out of I guess is my question?

9 MR. WALKER: Object to the form.

10 A You mean the book? 04:09PM

11 Q Yeah, the entire --

12 A I may have had the book. I have not read it
13 from cover to cover, no, sir.

14 Q Okay, all right. Exhibit 25 is a complete
15 copy of the later version of the 1998 second 04:09PM
16 edition. You've seen that, have you not, this
17 Exhibit 25?

18 A This is just a -- yes, sir.

19 Q What did Cargill, Inc., or Cargill Turkey,
20 LLC, do with these documents, the water quality 04:10PM
21 handbook when it had them?

22 A I don't -- I don't remember how I got the
23 first one. It had to have been given to me, but the
24 second one I probably got from a symposium or a
25 meeting. 04:10PM

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1 Q What was done with them after you obtained
2 them?

3 A I was just keeping them for a reference if
4 anybody ever called me or kind of like -- you know,
5 it was -- there was studies going on all the time. 04:10PM
6 There was different things going on, and I mean I've
7 never sat and read through it all, but it could have
8 had information that may have answered a question
9 for somebody.

10 Q Look at 142784 of Exhibit 25, the letter dated 04:11PM
11 February 16th, '99. Should be the third page back.

12 A Okay.

13 Q This is a document signed by Doyle Morrow of
14 Cargill, Inc. Have you seen that?

15 A What?

16 Q 142784.

17 A Okay. Got it.

18 Q Do you see Doyle's signature there above his
19 name on this document?

20 A Yes, sir. 04:11PM

21 Q All right, and this says, I would like for
22 each of our producers to have a copy. Do you know
23 whether or not producers, meaning growers, received
24 copies of the poultry water quality handbook?

25 MR. WALKER: Object to the form as beyond 04:11PM

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1 the scope of the topics noticed.

2 A Sir, he is in California, Missouri.

3 Q My question to you for Cargill, Inc., did its
4 growers receive copies of the poultry water quality
5 handbook? 04:12PM

6 MR. WALKER: Same objection.

7 A I do not know if they actually got it. It
8 looks like from his letter that he intended to,
9 so --

10 Q All right, and do you know whether or not 04:12PM
11 growers in the IRW was provided -- were provided a
12 copy of Exhibit 25 at any time?

13 A No, sir, they were not. They were not
14 provided a copy through Cargill. If they got a copy
15 of it, it was on their own through their own 04:12PM
16 resources.

17 Q Okay. Do you know whether or not Mr. Morrow
18 who is in California, Missouri in fact produced it
19 to his contract growers in that complex?

20 MR. WALKER: Object to the form as beyond 04:12PM
21 the scope of the topics noticed. You have a
22 specific topics about California operations and it's
23 not this witness. Answer, if you have any
24 knowledge.

25 A Well, sir, earlier I said I don't know if he 04:13PM

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1 did or not. I don't know.

2 Q Did you share either Exhibit 24 or Exhibit 25
3 with anyone at Cargill, Inc., or Cargill Turkey,
4 LLC?

5 A No, sir. I'm sorry. Does that mean make a 04:13PM
6 copy and --

7 Q Sharing it in any way, whether they simply
8 borrowed it and read it, whether you copied it and
9 copied parts of copies of it?

10 A No, sir, I never made copies of it, and I do 04:13PM
11 not know of anybody that came in and read it.

12 Q Did you ever use the Exhibit 24 or Exhibit 25
13 in any presentations to contract growers? When I
14 say use, use it in the sense of its contents.

15 A No, sir. 04:14PM

16 Q Do you know Mr. Morrow?

17 A Yes, sir. He was the production manager in
18 California, Missouri.

19 Q Okay, and this letter is addressed to Cargill
20 contract producers on Page 142784, and he says, I 04:14PM
21 hope that you will familiarize yourself with your
22 handbook and use it as a ready reference for
23 environmental considerations. That's the last
24 sentence of Paragraph 2. Is there any reason why
25 Cargill, Inc., would not share this material with 04:14PM

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1 growers in the IRW?

2 MR. WALKER: Object to the form as beyond
3 the scope of the topics noticed.

4 A No, sir, no, sir.

5 Q Let me hand you what's been marked as Exhibit 04:15PM

6 21 and ask you, sir, if you've seen that document

7 that was produced by Cargill to the State of

8 Oklahoma, and I'll represent to you, sir, that the

9 highlighting or underlining that appears in this

10 document was as it was presented to the State of 04:15PM

11 Oklahoma from Cargill. Do you see this to be an

12 article about agricultural phosphorus and

13 eutrophication dated July 1999 by the U.S.

14 Department of Agriculture?

15 A Yes, sir. 04:16PM

16 Q All right, and can you tell me who in Cargill

17 would have this document and the need for its use?

18 A I believe this came out of my files.

19 Q Okay, and what were you -- are these

20 highlights or notes in the page margins your 04:16PM

21 handwriting?

22 A No, sir.

23 Q Do you know whose handwriting they may be

24 then?

25 A No, sir. 04:16PM

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1 Q When you had this in your files, were these
2 handwritten notes underlined already contained in
3 this document or did this maybe come from other
4 files?

5 A Somebody had to have given it to me if that's 04:16PM
6 what you are talking about. It came to me as -- ask
7 me one more time.

8 Q I'm trying to determine if these underlined
9 portions in these margin notes were in the document
10 that you had in your possession? 04:17PM

11 A Yes, sir. This is how it was in my
12 possession.

13 Q So somebody gave you these -- this article
14 with those notes on it. Do you know who that person
15 was? 04:17PM

16 A No, sir, I do not.

17 Q What did you do with this article when you
18 received it?

19 A Well, a lot of the other information I've got,
20 I have kept it -- I believe it was on my bookstand. 04:17PM

21 Q Did you read it?

22 A No, sir, I don't remember reading it.

23 Q You don't remember reading any parts of it?

24 A Huh-uh.

25 Q Your response is what? 04:17PM

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1 A No, sir.

2 Q You didn't. Okay. You don't remember reading
3 it?

4 A No, sir.

5 Q At one time you were the -- you held a title 04:17PM
6 of environmental coordinator; correct?

7 A Yes, sir.

8 Q And in doing so, did you have any
9 responsibility in accumulating information such as
10 this would have documentation about environmental 04:18PM
11 aspects of poultry?

12 A Well, if there was information out there from
13 the states or from academia and I attended meetings
14 or if it was mailed, yes, I would be the one to kind
15 of gather that information. 04:18PM

16 Q All right, and did you do that while you were
17 working at Cargill, Inc., also, gather this kind of
18 information about phosphorus, eutrophication or
19 other environmental aspects of poultry operations?

20 MR. WALKER: Object to the form. 04:18PM

21 A Yes, sir. If I would have attended a meeting
22 or a symposium, I would have gotten some material
23 from there.

24 Q So if somebody in Cargill, Inc., wanted to
25 know information along these topics, were you the 04:18PM

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1 person to on go to and ask the questions?

2 A Yes, sir.

3 Q Okay, and is that still the same when you're
4 working for Cargill, LLC, that you would be the
5 person that they would go to to ask questions as to
6 the environmental effects of poultry operations?

04:19PM

7 MR. WALKER: Object to the form.

8 A I would be a source, as would Tim Maupin.

9 Q Okay. Anyone besides the two of you that
10 would be a source for environmental information as
11 it pertains to poultry operations?

04:19PM

12 MR. WALKER: Object to the form.

13 A Well, sir, we had different -- in the
14 different complexes or in different states, I don't,
15 nor does Tim Maupin, attend all the meetings. If
16 somebody from one of the other locations would
17 attend a meeting, he may get material that may be
18 relevant for that state and that complex.

04:19PM

19 Q About when did you receive this information,
20 Exhibit No. 21?

04:20PM

21 A Sir, I do not know.

22 Q Let me hand you what's been marked as Exhibit
23 No. 23 and ask you if you've seen that document
24 before.

25 A No, sir, I do not remember seeing this before.

04:20PM

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1 Q Look at Page 220661 of this document, if you
2 would, please. Are you there?

3 A Is this it?

4 Q Yes, sir, it is. In the left-hand column the
5 last full paragraph there, the first sentence I'll 04:21PM
6 read to you: The amount of P necessary to cause
7 water quality problem is very small compared to the
8 amount of P required for crops or the amounts
9 contained in manure and fertilizer P applications.
10 Are you familiar with that concept, sir? 04:21PM

11 A No, sir.

12 Q Does Cargill know what that means?

13 MR. WALKER: Object to the form.

14 A No, sir.

15 Q Under phosphorus transport it says, phosphorus 04:21PM
16 enters lakes and streams mainly in runoff and
17 erosion from landscapes draining to them. Runoff is
18 the gravity-induced movement of water across the
19 surface of soils. Is that something Cargill knew as
20 a result of having this document? 04:22PM

21 A Sir, we haven't done any -- there's been no
22 tests done on this. I don't know the author. I
23 didn't look at the front of it. University of
24 Wisconsin. I don't know the data that they got for
25 that. I don't know -- understand the proof of that 04:22PM

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1 or if it's just the author's own -- the author of
2 this article's own personal belief, so --

3 Q Did at any time Cargill, Inc., have a concern
4 with regard to the phosphorus that was contained in
5 poultry waste running off lands where it was
6 applied? 04:22PM

7 MR. WALKER: Object to the form.

8 A Ask me one more time.

9 Q Did Cargill, Inc., at any time have concern
10 about phosphorus running off from land where poultry
11 waste had been land applied? 04:23PM

12 A Cargill understands that there's a risk of --
13 if BMPs and nutrient management plans aren't
14 followed, that there is a risk that some runoff
15 could occur, and were we concerned, yeah, that's -- 04:23PM
16 trying to get our growers educated and asking or
17 getting information from the states.

18 Q Did Cargill at any time undertake an
19 investigation or review of published literature as
20 what to do to minimize the risk of runoff from 04:23PM
21 poultry -- from land where poultry waste had been
22 land applied?

23 MR. WALKER: Object to the form.

24 A No, sir.

25 Q Has Cargill Turkey, LLC, undertaken any study 04:23PM

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1 or review of published literature on how to minimize
2 the risk of phosphorus runoff from lands where
3 poultry waste has been applied?

4 MR. WALKER: Object to the form.

5 A No, sir.

04:24PM

6 Q Let me hand you Exhibit 41. This is an E-mail
7 from Jim Ward dated July 26th, 2004 to Brenda Roe
8 with regard to turkey inventory; is that correct?

9 In this E-mail it's asked, question, do you have any
10 idea how many tons of feed are being consumed daily
11 by 12 million birds, in the middle of the document.

04:26PM

12 At the very top there's an answer from Jim Ward that
13 says, I would use year-end numbers as of May, take
14 average weight by bird type, times the volume, times
15 FCR, divided by 2,000 pounds, equals tons of feed to
16 produce 12 million head. Do you see that statement?

04:26PM

17 A Yes, sir.

18 Q Is Jim Ward the person that would most likely
19 know how much feed it would take to feed a number of
20 birds as indicated by his answer in his E-mail?

04:26PM

21 MR. WALKER: Object to the form.

22 A Well, this is Jim Ward's version of just a
23 rough dirty down calculation.

24 Q I understand that, but is he the person that
25 would most likely know that information?

04:26PM

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1 MR. WALKER: Object to the form.

2 A No, sir. He would not know -- the information
3 would had to have been given to him from Brenda Roe
4 on some of this.

5 Q Okay, and does Cargill, Inc., have an opinion 04:27PM
6 here today or Cargill Turkey, LLC, with regard to
7 this formula as being a fair estimate as to the
8 amount of feed it would take for 12 million head or
9 how to calculate that amount?

10 A Well, for the amount of feed used for any 04:27PM
11 amount of head, you would need to know their weight
12 and their feed conversion, if that's what you're
13 asking.

14 Q That's not what I'm asking. I'm asking, in
15 his description of this rough and dirty estimate you 04:28PM
16 said, this estimate he's prepared here, is this an
17 accurate calculation or accurate method for a
18 calculation to determine how many pounds or tons
19 would be necessary to produce 12 million head of
20 birds? 04:28PM

21 A It wouldn't be accurate, but it would be -- I
22 don't know what percent error you could have in
23 here. I haven't even thought about it, but if you
24 were just wanting some general knowledge, a very
25 rough estimate, you can get to it by doing this. 04:28PM

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1 Q What does Cargill know to be the average
2 required feed in either pounds or tons for a number
3 of birds or a single bird?

4 A It depends on what bird type it is.

5 Q I understand. Let's go through them. 04:28PM

6 A Okay. For Springdale, a 14-pound hen, 14 and
7 a quarter, is kind of our product. The feed
8 conversions are running, I believe, at this time
9 2.05 to 2.15.

10 Q Okay. Tell the court what feed conversion 04:29PM
11 means.

12 A Feed -- feed per pound of meat is an easy --
13 yeah, feed per pound of meat.

14 Q So two pounds of feed or 2.05 to 2.15 roughly
15 creates one pound? 04:29PM

16 A To a pound of --

17 Q Creates one pound of bird?

18 A Yes, sir.

19 Q And is it a regular hen you're talking about?

20 A Yes, sir. 04:29PM

21 Q What about a tom or a big tom?

22 A A big tom, they average 38, 39 pounds for the
23 year, and I believe the feed conversions range from
24 2.50 to, I don't know, 2.70.

25 Q What is the other -- what would be another 04:30PM

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1 major product that would come out of the Springdale
2 complex?

3 A At this time that's the two that are.

4 Q Previous to that, would there be a different
5 kind? 04:30PM

6 A Is this LLC or Inc.?

7 Q Either one because I want to go back into both
8 of them to find out what kind of birds are produced,
9 generally how big they are and, thus, how much feed
10 went into it. 04:30PM

11 A Okay. Inc., back into the '80's and '90's,
12 there has been a time where what I call a regular
13 tom or what you are just calling a tom, it was being
14 produced. The weight of that product was 20 to 23
15 pounds, 23 pounds probably average on that and, 04:31PM
16 gosh, what were the feed conversions in 1990's?

17 Q Would it have been greater; was it more feed
18 to produce more pound historically than it is today?

19 A It wouldn't -- sir, without knowing it -- and
20 this is a guess. In the low 2.20s, 2.20, 2.30, and 04:31PM
21 that is really a guess because I can't remember.

22 Q But generally speaking would you agree with me
23 that over time feed conversion ratios have improved
24 with the growing processes that have also improved?

25 A Through the '90's, I believe that is true. I 04:32PM

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1 haven't seen the latest data, but the birds have --
2 the last few years the birds may have gotten a
3 little bit bigger but may not have seen improved
4 feed conversions, but I don't know, and then the
5 other bird type is a big hen, and it's about a
6 22-pound bird, and -- and I'm guessing again, 2.30
7 to 2.40.

04:32PM

8 Q And that's for Inc. in what time frame?

9 A From -- in the '90's, in the '90's late '80's
10 and '90's.

04:33PM

11 Q Okay. Did you cover all the bird types?

12 A Yes, sir. There's only four bird types,
13 regular hens, big hens, regular toms and big toms.

14 Q Okay. Do you know the feed conversion roughly
15 for the big toms and the hens historically? I think
16 you gave them to us at present time.

04:33PM

17 A Do I know what they were in the '90's, no.

18 Q Would you agree with me, though, generally
19 speaking, those feed conversion ratios would have
20 been a little higher than they are today?

04:33PM

21 MR. WALKER: Object to the form.

22 A A lot of that depends on the diet that they
23 have been fed, and through the '80's and early
24 '90's, yeah, we were probably getting some better
25 feed conversions. There has been a point in time in

04:34PM

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1 the middle '90's that diets changed, formulations
2 changed, that that may not be true.

3 Q Does Cargill at any time add a form of arsenic
4 to its feed for its birds?

5 A There is an arsenic compound called Histostat. 04:34PM

6 Q Okay. Is there -- is that a Roxarsone
7 chemical?

8 A No, sir. I think it's -- I only known it by
9 Histostat. It's a different -- if Roxarsone is what
10 is fed to the chickens, it's not the same thing. 04:34PM

11 Q All right. Is -- are there antibiotics
12 introduced in the feed for Cargill Turkey, Inc.,
13 birds at any time?

14 MR. WALKER: Object to the form, beyond the
15 scope of the topics noticed. I think you are on 04:35PM
16 feed formula ingredients, and that's not for this
17 witness.

18 Q Do you know, sir?

19 A Can you ask the question one more time?

20 Q Yeah. Are antibiotics added to the feed for 04:35PM
21 the birds at any time by Cargill, Inc.?

22 A At times, yes.

23 Q And does Cargill Turkey, LLC, also add
24 antibiotics to the feed?

25 MR. WALKER: Same objection, beyond the 04:35PM

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1 scope of this witness' noticed deposition topics.

2 A At times, yes.

3 Q Okay. What is the amount of new bedding
4 material that's generally placed into a brood house?

5 A For a 25,000 square foot brooder house, there 04:36PM
6 would be one semi.

7 Q One semi?

8 A Yes, sir.

9 Q What does that equate to?

10 A How big are the trailers? 04:36PM

11 Q No. How much is contained within the trailer
12 that we're talking about; is it measured by pound;
13 is it measured by cubic feet?

14 A Cubic yards.

15 MR. WALKER: Don't write on the exhibits. 04:36PM

16 A Well, okay. I don't have a calculator in
17 front of me, but a normal trailer is, what, 8 foot
18 wide and 48 feet long and 8 foot high.

19 Q Okay. So we would calculate that for cubic
20 yards, and one semi would fill a brood house on an 04:37PM
21 average?

22 A For that size house, yes, sir.

23 Q Okay. Is that an average size house that you
24 just referred to that's being utilized in the IRW at
25 this time? 04:37PM

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1 A No, sir. Most of the houses in the IRW are
2 smaller than that.

3 Q Okay. On -- in comparison -- well, let me ask
4 you this then: What would be the amount that's
5 placed into an average size house if it's smaller in 04:37PM
6 the IRW?

7 A Oh, two-third to three-quarters of that amount
8 on average.

9 Q Let me hand you what's been marked as Exhibit
10 49 and ask you, sir, if you know what this document 04:38PM
11 is. I'll represent to you I believe this to be from
12 a spreadsheet that was furnished from Cargill.

13 A Okay.

14 Q So do you know what the purpose of knowing
15 fertilizer materials and percent of water solubility 04:39PM
16 would be?

17 A No, sir.

18 Q Do you know where or who would have this
19 information in Cargill Turkey's documents or
20 records? 04:39PM

21 A I do not, no, sir.

22 Q Do you know how long Cargill Turkey or
23 Cargill, Inc., has had this document in its
24 possession?

25 MR. WALKER: Object to the form. 04:39PM

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1 A This is only an assumption.

2 MR. WALKER: You're here to testify to what
3 you know as a representative of Cargill. Don't
4 assume.

5 A No, sir.

04:39PM

6 Q Do you have any personal knowledge, sir, as to
7 who or why this would be in the files of somebody in
8 Cargill's company?

9 A No, sir.

10 Q See if you can find Exhibit 9E in your stack
11 there. Does Cargill, Inc., know on average how much
12 poultry waste is produced from either a flock or an
13 individual bird?

04:40PM

14 MR. WALKER: Object to the form.

15 A Cargill has used a rough estimate that Tim
16 Maupin brought over from Virginia about litter
17 production.

04:42PM

18 Q Hang on just a second. The January '03
19 Cargill --

20 MR. WALKER: We were looking for C. I'm
21 starting over.

04:43PM

22 MR. GARREN: It's not your fault. I
23 changed on you.

24 Q When we get there, I'm going to ask you again
25 about calculations of poultry waste production. All

04:43PM

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1 right?

2 A Okay.

3 MR. WALKER: 9E, echo.

4 Q Go, if you would, sir, to Page 360 in the

5 Bates numbers. 04:43PM

6 MR. WALKER: You just got to give the
7 lawyer a chance to find his own copy now.

8 MR. GARREN: Sorry.

9 MR. WALKER: That's all right.

10 Q Do you see the worksheet there that's two 04:44PM
11 pages at 360 and 361?

12 A Yes, sir.

13 Q All right. Let's -- there are broilers on
14 there which refers to chickens. On the first page
15 of 360 there's a turkey brooder house whole litter, 04:44PM
16 and there's an example of a formula and how to
17 calculate it; do you see that there?

18 A Yes, sir.

19 Q Is that a fair estimate of a calculation?

20 A Sir, I've never -- we've never calculated -- 04:44PM
21 I've never calculated just the brooder house. The
22 calculation that we've used before is for the life
23 of a flock on a per thousand head placed.

24 Q Okay. Tell me what that formula would be.

25 A For regular hens, it was seven tons of litter 04:44PM

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1 produced for a thousand head placed.

2 Q Okay.

3 A And, like I say, that came from Tim Maupin
4 and -- sorry.

5 Q And for toms it is what? 04:45PM

6 A The big toms is nine tons of litter produced
7 for every thousand head placed.

8 Q And do you use any other calculations besides
9 regular hens or big toms?

10 A No, sir. That is what we were growing in the 04:45PM
11 IRW.

12 Q And so that would be for the life of the bird
13 or for the life of the thousand birds based upon
14 that statement of nine tons for a tom, big tom?

15 A Yes, yes, yes, produced for the life of that 04:45PM
16 flock.

17 Q Okay. Do the brooder houses -- do you have an
18 estimate of the volume of poultry waste generated
19 from them?

20 MR. WALKER: Object to the form. 04:46PM

21 A You know, I don't think we do.

22 Q Subject matter 21 was the amount of poultry
23 waste generated during the lifetime of an individual
24 bird or flock of birds specified by bird types and
25 number owned by you in the past and present within 04:46PM

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1 the IRW. That would include brooder, would it not?

2 A Uh-huh.

3 Q And you're telling me today you don't know
4 what that would be?

5 A Sir, you asked if we have a calculation. I've 04:46PM
6 never used a calculation. We've used -- for our
7 breeder farms, we use about 425 tons of litter
8 produced a year.

9 Q Per house?

10 A No. That would be for a breeder farm. 04:47PM

11 Q For how many houses?

12 A Well, Farms 1 and 2 and 3 have three houses
13 and Farms 4, 5 and 6 have five houses.

14 Q Okay, and are you telling me it's the same for
15 both the three-house and five-house farm? 04:47PM

16 A Yes, sir.

17 Q And it's because of the type of bird or the
18 length of the bird that's in it?

19 A It's because they place the same amount of
20 bird -- 04:47PM

21 Q We've talked about that. I'm sorry.

22 A I mean not placed, but the same amount of
23 birds are --

24 Q Are on each farm?

25 A Yes, yes. 04:47PM

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1 Q And that's a result of house sizes?

2 A Yes.

3 Q Okay. Let's talk about the preproduction

4 houses. Do you know an estimate of the volume of

5 waste generated in preproduction houses?

04:48PM

6 MR. WALKER: Object to the form.

7 A Again, we don't use a calculation.

8 Q I don't think that's what I asked. Do you

9 know what's generated?

10 A What we use as an estimation is 600 tons a

04:49PM

11 year.

12 Q And that's 600 tons per year per what, a

13 house, two houses?

14 A No. Per preproduction unit, per farm.

15 Q And how many farms are we talking about that

04:49PM

16 exist in the IRW?

17 MR. WALKER: Object to the form.

18 Q As you refer to as preproduction farm?

19 A Four.

20 Q And that's an annual number per farm for all

04:49PM

21 the houses that are on that farm?

22 A Yes.

23 Q Are you familiar with a project called

24 Harmony?

25 MR. WALKER: I'm going to object to the

04:50PM

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1 form as beyond the scope of the topics noticed.

2 MR. GARREN: I understand that. I'm trying
3 to find out if he knows what it is so we can
4 identify what it's about.

5 MR. WALKER: I think we all know what it 04:50PM
6 is.

7 A My understanding is that it was a company that
8 took poultry litter and made a granular fertilizer
9 out of it, and it was in Virginia.

10 Q Okay. Is there a similar process or a company 04:51PM
11 in the IRW area?

12 MR. WALKER: Object to the form, beyond the
13 scope of the topics noticed. Litter alternatives is
14 another witness.

15 A Is your question, is there another Harmony in 04:51PM
16 the IRW? Not to my knowledge.

17 Q We talked earlier a little bit about alum
18 being added to a farm. Are you familiar with a
19 chemical or compound referred to as phytase?

20 A That vaguely it is a -- I think it's an enzyme 04:52PM
21 that's put in the feed.

22 Q Is that something that Cargill has done in the
23 past or does presently?

24 MR. WALKER: Object to the form. Feed
25 ingredients is not the scope of this witness' 04:52PM

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1 testimony.

2 A I believe we have used it.

3 Q All right. So it's not added to the barn;
4 it's added to the feed; is that correct?

5 MR. WALKER: Same objection. 04:52PM

6 Q Phytase?

7 A It is my understanding, yes, it's my
8 understanding.

9 MR. GARREN: Okay. I guess we're about out
10 of time here. Let's go ahead and take a break and 04:53PM
11 we'll get the final tape loaded.

12 VIDEOGRAPHER: We're now off the Record.
13 The time is now 4:52 p.m.

14 (Following a short recess at 4:53 p.m.,
15 the deposition was concluded at 5:07 p.m.)

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SIGNATURE PAGE

I, Tim Alsup, do hereby certify that the foregoing deposition was presented to me by Lisa A. Steinmeyer as a true and correct transcript of the proceedings in the above styled and numbered cause, and I now sign the same as true and correct.

WITNESS my hand this _____ day of _____, 2008.

TIM ALSUP

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2008.

Notary Public

My Commission Expires:

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CORRECTIONS TO THE DEPOSITION OF
TIM ALSUP 30(b)(6)
Volume I

PAGE AND LINE NUMBER

CORRECTION

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